FOREIGN AGENTS REGISTRATION ACT AMENDMENTS

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

EIGHTY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 2136

TO AMEND THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

NOVEMBER 19, 20, AND 21, 1963

Printed for the use of the Committee on Foreign Relations

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1963

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CONTENTS

FOREIGN AGENTS REGISTRATION ACT AMENDMENTS

TUESDAY, NOVEMBER 19, 1963

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 4221, New Senate Office Building, Senator J. W. Fulbright (chairman) presiding.

Present: Senators Fulbright, Sparkman, Humphrey, Lausche, Aiken, and Williams.

The CHAIRMAN. The committee will come to order.

REVIEW OF STUDY OF NONDIPLOMATIC AGENTS

We begin today the final series of hearings before the Senate Committee on Foreign Relations in its study of activities of nondiplomatic agents of foreign principals held pursuant to Senate Resolution 362 of the 87th Congress, 2d session, and Senate Resolution 26 of the 88th Congress, 1st session.

During the past 16 months, the committee has examined in detail the activities of various registered foreign agents, their compliance with the Foreign Agents Registration Act and the administration of that act by the Department of Justice. Thirteen parts of published hearings have been released containing 1,998 pages of testimony.

Last February when I opened the first of the hearings in this study, I said:

> Little, if any, precise detailed information has been available up to now on what nondiplomatic agents do or how they do it.

I believe today the committee, the Senate and the American people know a little more than they did 9 months ago about the activities of nondiplomatic agents.

PENDING LEGISLATION RESULTING FROM INVESTIGATION

But the committee's responsibility has not been fulfilled by the publishing of the facts concerning certain selected foreign agents activities. The responsibility of the committee was to investigate with an eye toward legislation and so today we begin a series of hearings on S. 2136. Introduced by Senator Hickenlooper and myself, this bill contains amendments to the Foreign Agents Registration Act which are intended to meet the problems and situations deemed inimical to the best interests of our Government which were disclosed during the course of the committee's investigation.

(S. 2136 follows:)

[S. 2136, 88th Cong., 1st sess.]

A BILL To amend the Foreign Agents Registration Act of 1938, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Foreign Agents Registration Act of 1938, as amended, is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) The term 'foreign principal' includes—

"(1) a government of a foreign country and a foreign political party;

"(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

"(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country."

(2) Subsection (c) is amended to read as follows:

"(c) Except as provided in subsection (d) hereof, the term 'agent of a foreign principal' means—

"(1) any person who acts as an agent, representative, employee, servant or in any other capacity at the order, request or under the direction or control of a foreign principal or of a person any substantial portion of whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign principal, and who directly or through any other person—

"(i) engages within the United States in poltical activities for or in the interests of such foreign principal;

"(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

"(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

"(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and

"(2) any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection."

(3) Subsection (d) is amended by striking out "clause (1), (2), or (4) of".

(4) Subsection (g) is amended by inserting before the semicolon at the end thereof the words "of such principal".

(5) Such section is further amended by adding at the end thereof the following new subsections:

"(o) The term 'political activities' includes the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any other person or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country, or a foreign political party or with reference to the domestic or foreign policies of the United States.

"(p) The term 'political consultant' means any person, including, without limitation, any economic, legal or other consultant, who engages in informing or advising any person with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a foreign political party or pertaining to the foreign or domestic policies of the United States."

SEC. 2. Section 2 of such Act is amended as follows:

(1) Subsection (a) is amended by striking out the second, third, and fourth sentences and inserting in lieu thereof the following: "Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within

ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal."

(2) Subsection (a)(3) is amended by inserting before the semicolon at the end thereof a comma and the following: "or by any other foreign principal".

(3) Subsection (a)(4) is amended by inserting before the semicolon at the end thereof a comma and the following: "including a detailed statement of any such activity which is a political activity".

(4) Subsection (a)(6) is amended by inserting before the semicolon at the end thereof a comma and the following: "including a detailed statement of any such activity which is a political activity".

(5) Subsection (a)(7) is amended to read as follows:

"(7) The name, business, and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under such circumstances as require his registration hereunder; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received during the preceding sixty days from each such person in connection with any of the activities referred to in clause (6) of this subsection, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;".

(6) Subsection (a)(8) is amended to read as follows:

"(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in connection with activities which require his registration hereunder and whch have been undertaken by him either as an agent of a foreign principal or for himself or any other person or in connection with any activities relating to his becoming an agent of such principal, and a detailed statement of any contributions of money or other things of value made by him during the preceding sixty days (other than contributions made in connection with activities which require his registration hereunder which are required to be reported under the preceding provisions of this clause) in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office;".

(7) Such section is further amended by adding at the end thereof a new subsection as follows:

"(f) The Attorney General may, by regulation, provide for the exemption from registration, or from the requirement of furnishing any of the information required by this section, of any person who is listed as a partner, officer, director, or employee in the registration statement filed by an agent of a foreign principal under this Act, where by reason of the nature of the functions or activities of such person the Attorney General having due regard for the national security and the public interest determines that such registration, or the furnishing of such information, is not necessary to carry out the purposes of this Act."

SEC. 3. Section 3(d) of such Act is amended by striking out the words "financial or mercantile" and inserting in lieu thereof the words "financial, mercantile, or public relations".

SEC. 4. Section 4 of such Act is amended as follows:

(1) Subsection (a) is amended by inserting after the words "political propaganda" the words "for or in the interests of such foreign principal"; and by striking out the words "send to the Librarian of Congress two copies thereof and file with the Attorney General one copy thereof" and inserting in lieu thereof the words "file with the Attorney General two copies thereof".

(2) Subsection (b) is amended by inserting after the words "political propaganda" where they first appear the words "for or in the interests of such foreign principal"; by inserting after the words "setting forth" the words "the relationship or connection between the person transmitting the political propaganda or causing it to be transmitted and such propaganda;"; and by striking out the

words "each of his foreign principals" and inserting in lieu thereof "such foreign principal".

(3) Subsection (c) is amended by striking out the words "sent to the Librarian of Congress" and inserting in lieu thereof the words "filed with the Attorney General".

(4) Such section is further amended by adding at the end thereof the following new subsections:

"(e) It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this Act to transmit, convey, or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this Act.

"(f) Whenever any agent of a foreign principal required to register under this Act appears before any committee of Congress to testify for or in the interest of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony."

SEC. 5. Section 5 of such Act is amended by inserting after "the provisions of this Act," the words "in accordance with such business and accounting practices,".

SEC. 6. Section 6 of such Act is amended by inserting the letter "(a)" after the section number and by adding at the end thereof the following new subsections:

"(b) The Attorney General shall, promptly upon receipt, transmit one copy of every registration statement filed hereunder and one copy of every amendment or supplement thereto, and one copy of every item of political propaganda filed hereunder, to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this Act.

"(c) The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress such information obtained by him in the administration of this Act, including the names of registrants under this Act, copies of registration statements, or parts thereof, copies of political propaganda, or other documents or information filed under this Act, as may be appropriate in the light of the purposes of this Act."

SEC. 7. Section 8 of such Act is amended as follows:

(1) Subsection (a) is amended by adding before the period at the end of paragraph (2) a comma and the following: "except that in the case of a violation of subsection (b), (e), or (f) of section 3 or of subsection (g) of this section the punishment shall be a fine of not more than $5,000 or imprisonment for not more than six months, or both".

(2) Such section is further amended by adding at the end thereof the following new subsections:

"(f) Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this Act, or regulations issued thereunder, or whenever any agent of a foreign principal fails to comply with any of the provisions of this Act or the regulations issued thereunder, or otherwise is in violation of the Act, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an order requiring compliance with any appropriate provision of the Act or regulation thereunder. The district court shall have jurisdiction and authority to issue a temporary or permanent injunction, restraining order or such other order which it may deem proper. The proceedings shall be made a preferred cause and shall be expedited in every way.

"(g) It shall be unlawful for any agent of a foreign principal required to register under this Act to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which

the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agent."

SEC. 8. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 613. Contributions by agents of foreign principals

"Whoever, being an agent of a foreign principal, directly or through any other person, either for or on behalf of such foreign principal or otherwise in his capacity as agent of such foreign principal, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

"Whoever knowingly solicits, accepts, or receives any such contribution from any such agent of a foreign principal or from such foreign principal—

"Shall be fined not more than $5,000 or imprisoned not more than five years or both.

"As used in this section—

"(1) The term 'foreign principal' has the same meaning as when used in the Foreign Agents Registration Act of 1938, as amended, except that such term does not include any person who is a citizen of the United States.

"(2) The term 'agent of a foreign principal' means any person who acts as an agent, representative, employee, servant, or in any other capacity at the order, request, or under the direction or control of a foreign principal or of a person any substantial portion of whose activities are directly or indirectly supervised, directed, or controlled by a foreign principal."

(b) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 219. Officers and employees acting as agents of foreign principals

"Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended."

(c) (1) The sectional analysis at the beginning of chapter 29, United States Code, is amended by adding at the end thereof the following new item:

"613. Contributions by agents of foreign principals."

(2) The sectional analysis at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"219. Officers and employees acting as agents of foreign principals."

SEC. 9. This Act shall take effect ninety days after the date of its enactment.

The CHAIRMAN. Our first witness today is Deputy Attorney General Nicholas Katzenbach. I would like to take a moment to express the appreciation of the committee to the Attorney General and his staff—particularly Assistant Attorney General Herbert Miller and Mr. Robert Rosthal—for the assistance given the committee during the course of its investigation.

At this point, I would like to have inserted in the record letters received by the committee on November 18, 1963, from the Department of Justice and on November 20, 1963, from the Federal Communications Commission in support of the bill.

(The letters referred to follow:)

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., November 18, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 2136, a bill to amend the Foreign Agents Registration Act of 1938, as amended.

The objectives sought to be accomplished by this legislation were detailed to the Senate by you at the time the bill was introduced on September 10, 1963. It is the view of the Department of Justice that, in general, the bill would effectively accomplish the objectives to which it is directed. We are therefore pleased to support its enactment.

However, committee attention is invited to the following considerations and suggestions.

During the more than 20 years during which the Department of Justice has had the responsibility for the administration of the Foreign Agents Registration Act, we have had relatively little difficulty in applying the definitions of "foreign principal" and "agent of a foreign principal." That the definitions have been clear and precise is attested by the fact that during this 20-year period the Congress has considered it necessary to amend the definition only once and that once was to enlarge on the definition of foreign principal.

The proposed redefinition of "agent of a foreign principal" introduces ambiguities which may create loopholes in the coverage of the act. For example, the word "substantial" on line 16 of page 2 may be held to mean "considerable or significant"; if so, many vital registrations may be lost. To illustrate, assume that a foreign principal retains a large public relations firm with a preponderantly domestic clientele to conduct a public relations program in the United States and that the public relations firm contracts with others to assist it in the program. Although the public relations firm would be required to register as an agent of a foreign principal, those with whom it has contracted may not because of the Government's inability to prove that a "substantial" portion of the activities of the public relations firm are "supervised, directed, controlled, financed, or subsidized" by a foreign principal. Another illustration of a problem created by the proposed redefinition of "agent of a foreign principal" relates to the use of the words "at the order, request, or under the direction or control of a foreign principal" on lines 14 to 16, page 2. Under existing law, the Government is required to submit proof of an agent's relationship and activities but is not required to prove that such activities are being conducted "at the order, request or under the direction or control of" the foreign principal. This is an unreasonable burden to impose upon the Government.

S. 2136 proposes a definition of the term "political activities," beginning on line 22 of page 3. This definition is substantially narrower than the definition of "political activity" which is presently contained in rule 100(a)(11), promulgated by the Attorney General. For example, the proposed definition would not include the furnishing of information or advice to a foreign principal with respect to matters pertaining to political or public interests of foreign governments or foreign political parties. In our view, any definition of "political activities" in the act should be at least as extensive as that which is now in the rules.

Section 2(7) of the bill would add to section 2 of the act a new subsection (f) to authorize the Attorney General, consistent with the national security, the public interest, and the purposes of the act, to provide for the exemption of certain persons whose functions or activities do not require that they register or furnish information. Illustrative of the type of exemption which could be granted pursuant to this authority, is that which might be accorded partners who have nothing whatsoever to do with activity in behalf of a foreign principal, although they are members of a registered law firm in which other partners handle the account. The Department supports this change.

Section 4 of the bill would, in part, amend section 4 (a) and (b) of the Foreign Agents Registration Act to insert after the words "political propaganda" the words "for or in the interests of such foreign principal." At the present time, section 4(a) of the act requires every agent of a foreign principal who transmits *any* political propaganda through the U.S. mails or an instrumentality of inter-

state or foreign commerce to file copies thereof and certain information pertaining to the transmittal. [Emphasis supplied.] Subsection (b) requires the labeling of such propaganda. The insertion of the words "for or in the interests of such foreign principal" may substantially impair the effectiveness of this filing and labeling section of the act. The exchange of correspondence between Mr. Harold Riegelman and the Department of Justice printed on page 139 of part 1 of the hearings conducted by the committee earlier this year, and the statement of Dr. Martin Kamacho on page 980 of part 8, highlight the problem to which we refer. Under the proposed amendment an agent for one country could disseminate unlabeled propaganda on behalf of another country or on his own behalf, and in either case claim exemption from the filing and labeling requirements of the act on the ground that he was not acting "for or in the interests of [his] foreign principal."

Section 7 of the bill would amend section 8 of the act to reduce the penalties applicable to certain violations and to make available to the Attorney General, in appropriate cases, injunctive relief to enjoin violations of the act or compel compliance with it. The committee may wish to consider one further step toward recognizing the varying degrees of culpability involved in violations of the act and the problems involved in administering it. It is suggested that the committee consider redesignating proposed subsection "(g)" on line 5 of page 12 as "(h)" and inserting a new proposed subsection "(g)" reading as follows:

"(g) If the Attorney General determines that a registration statement as required by section 2(a) or a supplemental statement as required by section 2(b) of this Act does not comply with the requirements of this Act or the regulations issued thereunder, he shall so notify the registrant in writing, specifying in what respects the statement is insufficient. Whoever acts an an agent of a foreign principal at any time ten days or more after receipt of such notification, without filing an amended statement in full compliance with the requirements of this Act and the regulations issued thereunder, shall, without regard to any penalties provided in section 8(a), be punished by a fine of not more than $5,000 or by imprisonment for not more than six months, or both."

Finally, committee attention is invited to the fifth amendment problems which might be posed by the interrelationship of proposed subsection 2(a)(8), which requires disclosure by an agent of political contributions made on behalf of his foreign principal, and the provisions of proposed section 613 of title 18, United States Code, which would make such contributions unlawful.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., November 20, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN FULBRIGHT: By letter dated September 13, 1963, you requested the Commission's comments on S. 2136, a bill to amend the Foreign Agents Registration Act of 1938, as amended. In that letter you also stated that although this bill did not meet the problem posed by the necessity for strengthening of the labeling provision of that law, the matter was still under study by your committee and any recommendations would be helpful.

As you know, the Foreign Agents Registration Act places responsibility on nondiplomatic representatives of foreign governments to label political propaganda and identify its source. At the same time, sections 317 and 508 of the Communications Act place a similar responsibility on broadcast licensees with respect to identification of source. In connection with the Communications Act, section 317, as implemented by Commission rules, requires, in substance, a sponsorship announcement fully and fairly disclosing the true identity of the person or persons furnishing such material, which would include identification of the foreign principal concerned. The act further places an obligation on Commission licensees to exercise reasonable diligence to obtain, from those with whom they deal directly in connection with any program, information to enable them to make the required announcement. In addition, section 508 of the act provides for certain disclosures where payments are made to persons other than licensees

for the broadcast of programs in circumstances where, if the licensee had received payment, an annoucement would be required. The purpose of these provisions is to assure in these instances that the public will be informed as to the source of sponsored broadcast material carried over the public airwaves (including, of course, matters which treat with political or controversial subjects).

As far as the present legislation, S. 2136, is concerned, we note that only subsection 6(c) appears to affect the Commission. That subsection, by authorizing the Attorney General to furnish agencies such information obtained by him in administration of the act as may be appropriate in light of the purposes of the act, would to some degree facilitate our task of administering sections 317 and 508. Accordingly, we would favor any such provision.

With respect to strengthening the labeling provision, which you indicate is still under study, it might be desirable to consider specific language to make certain that foreign agents properly label all films, recordings, and printed or typed propaganda furnished to broadcasters, and to include a requirement that any such agent appearing personally on a radio or television program shall inform the broadcast licensee or his representative that he is such an agent. A requirement of this type would better enable licensees to comply with section 317 of the Communications Act of 1934, as amended.

Consideration might also be given to imposing the labeling requirement—not only upon the agent of the foreign principal—but upon anyone disseminating the propaganda with knowledge of its nature and origin. The form of labeling or announcement should be tailored to the particular medium used for its dissemination and—in the case of use over radio or television—should bear in mind the provisions of sections 317 and 508 of the Communications Act.

When you reach this phase of your study, we can make our staff available for technical consultation if you so desire.

This letter was adopted by the Commission on October 9, 1963.

We have been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the submission of this report to your committee.

By direction of the Commission:

E. WILLIAM HENRY, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., November 20, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for comments on S. 2136, a bill to amend the Foreign Agents Registration Act of 1938, as amended. Your letter also asked for comments on the need for strengthening the labeling provisions of the act. In regard to the latter, the Bureau of the Budget concurs in the recommendations made by the Federal Communications Commission in its report.

Responsibility for the administration of the Foreign Agents Registration Act rests with the Department of Justice. In its report to your committee, the Department of Justice supports enactment of the bill. However, the Department raises a number of problems in connection with certain provisions of the bill. The Bureau of the Budget has no objection to enactment of the bill, but recommends to the attention of the committee the reservations raised by the Department of Justice.

Your attention is called to an apparent minor technical omission: On page 14, line 18, the words "of title 18" appear to have been omitted after the words "chapter 29".

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

The CHAIRMAN. Mr. Katzenbach, we are very pleased to have you this morning. I believe you have a prepared statement?

Mr. KATZENBACH. I do, Mr. Chairman. I have a short prepared statement.

The CHAIRMAN. Would you proceed, please, sir.

Mr. KATZENBACH. Yes, sir.

STATEMENT OF HON. NICHOLAS deB. KATZENBACH, DEPUTY ATTORNEY GENERAL; ACCOMPANIED BY NATHAN B. LENVIN, CHIEF, REGISTRATION SECTION, INTERNAL SECURITY DIVISION

I wish to express my appreciation to the committee for affording me this opportunity to express my views with respect to the proposals to amend the Foreign Agents Registration Act as contained in S. 2136. As you know, prior interest and concern manifested by the Congress toward this act have been directed primarly toward its internal security aspects.

INVESTIGATION HAS REVEALED SHORTCOMINGS IN ACT

A significant result of the investigations by this committee has been an analysis and elucidation of the widespread and myriad activities of nondiplomatic representatives of foreign principals. Because of these investigations, we are now better informed as to the nature, character, and extent of such activities and the problems which they present. Much light has been shed by your hearings on the activities of public relations firms on behalf of foreign governments or agencies and upon the large amounts of money dedicated to these purposes, often without substantial concern for the value of the services received in exchange.

In addition, shortcomings in the act have been disclosed and a bill prepared and offered to meet the needs found.

The proposed legislation now before the committee as S. 2136 is basically sound and we are pleased to support it.

PENDING BILL PROVIDES ADMINISTRATIVE FLEXIBILITY

The provisions of the bill designed to lend flexibility to the Department's hand in its administration and enforcement of the act are especially welcome. Both the experience gained in administering and enforcing the act and the information gathered by your committee during the course of its hearings make it clear that the act's single criminal penalty is an unwieldy device with which to cope with problems which arise in the day-by-day administration of the statute.

Particularly desirable is the proposal which grants the Attorney General the authority to seek from the district court an injunction against violations of the act. Another provision which would facilitate enforcement is the proposal to allow the Attorney General to prescribe the manner and method by which a registrant shall maintain the financial records pertaining to the representation of his foreign principal.

ADDITIONAL AMENDMENT SUGGESTED

In keeping with the aims of the committee to provide for more effective and useful enforcement of the act, I would like to suggest for the consideration of the committee one additional amendment which would somewhat parallel those already proposed. It would be beneficial, I think, to amend section 2 of the act to enable the Department to require

an agent of a foreign principal to cease acting as such until he has made the full disclosure required by the act. Violation of such a requirement would be punishable as a misdemeanor.

Both the Department and this committee have recognized that the penalties now imposed in the act may be too severe to be effectively invoked in all instances—for example, in those cases in which there has been partial compliance and the violation consists only of a failure to give all the details required by the registration form. These situations may not be sufficiently grave to warrant the seeking of an injunction or the return of an indictment, but real enough to require some action beyond an exchange of correspondence.

Other provisions of the bill also meet with the approval of this Department. I shall not, however, take the time of the committee to detail each of these.

Instead, it may be useful to refer briefly to a problem raised by some language changes which would be made by the bill.

BILL'S EFFECT ON LABELING PROVISIONS

The proposed amendments to section 4 of the act would provide that only political propaganda disseminated for and in the interests of the foreign principal must carry the label and must be filed with the Department. Under the present law, any political propaganda disseminated by an agent of a foreign principal must be labeled and filed. These revisions would have a real and significant narrowing effect upon the obligations of an agent. They would open the door for an agent of a particular foreign government or foreign political party to disseminate unlabeled political propaganda favoring that country or political movement under the claim that it is in his own behalf and an expression of his own personal views.

Thus, the burden of proof would be appreciably increased by the need to disprove the truth or sincerety of this claim; and, as we all know, proof of a state of mind is particularly difficult, especially, when as here, a willful violation of the act must be shown for successful prosecution.

"POLITICAL ACTIVITIES" DEFINED

Finally, as indicated in my letter, the narrowing of the term "political activities" as contained in the proposed bill may unduly narrow the application of the statute and seriously hamper its enforcement. I would suggest that any definition of political activity should be at least as extensive as that which is now in rule 100(a) (11) promulgated by the Attorney General.

Let me emphasize that I do not intend the few technical reservations to which I have referred today and in my letter to obscure the fact that the Department regards S. 2136 as desirable legislation. We support its enactment.

AGENT CEASE ACTING UNTIL ACTIVITIES DISCLOSED

The CHAIRMAN. Thank you, Mr. Katzenbach.

I think your suggestion on page 2 about the power to require an agent to cease acting as a representative until he has made full dis-

closure is a very good one. Do you mean to enforce this by administrative action or by the injunction?

Mr. KATZENBACH. Yes; or by the injunction. I think it might be helpful if we were to use an injunctive route on it, that it be made clear that there was a remedy that would authorize the court to order a person to cease and desist. I am rather inclined to think we could do it under the phrasing as is presently contained.

The CHAIRMAN. We certainly could easily enlarge that to make that power more specific. I think it is a good idea.

PENALTIES IMPOSED UNDER 1938 ACT

I noticed in the list, that you have supplied to the committee, of convictions obtained under the act (most of which were obtained prior to 1944, when emphasis was on subversion), that even in those cases where you obtained a conviction, the penalties were very light. I think the penalties usually ran about $500, which was the normal fine imposed upon an agent who was, in the early days, a Nazi or a Communist. So that even though you had the power to impose heavy fines, it was not usually done, is that not correct?

Mr. KATZENBACH. That is correct, Senator; and, of course, the standard defense is that, it is a very technical act, and that this is simply a technical violation and should not be regarded too seriously.

The CHAIRMAN. The other defense is that "everybody is doing it. Why do you pick on me," is it not? I think that your suggestion is a very good one.

LABELING PROVISIONS OF ACT

On page 3 of your statement you refer to a problem raised by the committee amendment relating to the labeling provisions of the act. Do I understand your position to be that once a person becomes a registered agent, thereafter, any political literature he puts out which falls within the act's definition of "political propaganda," whether or not it is in the interest of his principal, should be labeled as the product of a registered agent?

Mr. KATZENBACH. That is what we are proposing, yes. The application of that, would be mainly in the field of internal security or subversion which would be the place that it woud be most useful to require that.

I am not unsympathetic to what I think was the objective in doing it the other way with respect to the problems that your committee has primarily concentrated upon, and I think there has to be a balancing there. I do not feel strongly about it. I think with respect to Communist literature and propaganda that it might be helpful to continue to have the labeling provisions.

PROBLEMS OF NARROWING LABELING PROVISIONS

The CHAIRMAN. I was thinking of one case where a man, registered in behalf of Germany, for example, wished to put in an advertisement expressing his opinion about our relations with the Philippines. He would say, "I am an American citizen. The fact that I am representing Germany has nothing to do with the Philippines, and I ought to be able to express my opinion the same as anyone else."

Isn't that the kind of difficulty that would arise?

Mr. KATZENBACH. Yes. I think it might, and even if the opinion was expressed with respect to Germany, and he was an agent of the German Government, it is always open to him to say, "This is my own opinion. It is not one that I did on behalf of my foreign principal."

DIFFICULTIES OF PROVING PRIVATE OPINION OR PAID PROPAGANDA

There is an indication in at least one of the cases that that sort of thing might be a good defense. But it does make some difference in terms, Mr. Chairman, of what we have to allege and prove initially, that is, under the present provisions as they are administered they would be enough to establish the fact that he did this and did not label it, to require him to come forward as part of his defense and say, "I did this on my own and not on behalf of the foreign principal." It is a difficult thing at best to establish. I would suppose then when it was taken to the jury, the proper instruction from the judge to the jury under present law would be, "If you believe that this was done on his own behalf and not on behalf of the foreign principal your finding should be not guilty."

Whereas, if you put this burden on us, then I think the proper instruction would be to the jury, "You must believe beyond a reasonable doubt that this was done on behalf of the foreign principal and as part of that arrangement." We would have that additional burden of proof upon the Government.

BURDEN OF FACTUAL INFORMATION ON DEFENDANT

The CHAIRMAN. Yes. I was a little puzzled by this, because as I recall, in your previous testimony to the committee, you had, in effect, read into the act a limitation somewhat similar to what the committee now proposes. I believe it is on page 136 and page 137 of part I of these hearings. We were discussing at that point the so-called Riegelman letter to the New York Times which was unlabeled. You will recall that Mr. Lenvin said, and I quote:

> We inquired about one when there was not, and the answer we got, of course, was that this was being written "in my private capacity as a private citizen and as a lawyer and as an interested person in public affairs, and it had no connection whatsoever with my representation of the foreign principal." That is another problem with which we are faced.

Mr. Katzenbach, you replied:

> That, Senator, is one of the more difficult problems involved in the act.

In other words, I take it both you and Mr. Lenvin have already read the act to mean that a person is required to label his correspondence on political matters only when it is written in his capacity as an agent of a foreign principal, and I agree, as I have said, this involves a very difficult problem of proof.

Mr. KATZENBACH. The point that I am making here is not inconsistent with what I said before. It is merely that I do believe it is possible to put the burden of showing that factual situation upon the defendant. If it is a burden that the Government has to bear, then in some instances it would be difficult, if not impossible, to prove beyond a reasonable doubt that it was written in his capacity as an agent of the foreign government.

SUFFICIENCY OF PRESENT LEGAL REQUIREMENT

The CHAIRMAN. Under the present law, a public relations firm representing Germany that puts out a press release for a domestic client on a political matter would be required to label the press release as coming from a foreign agent, would it not?

Mr. KATZENBACH. Yes, I would think so; yes.

The CHAIRMAN. I think the difficulty would be if you broaden the authority too much; it would be too difficult to enforce. If you narrow it then it would be easier, would it not?

Mr. KATZENBACH. I should think, in general, that would be true, Mr. Chairman.

The CHAIRMAN. It is a difficult problem. I would not minimize the difficulty of it.

Mr. KATZENBACH. It is a tough one. I thought on this particular matter that it might be easier to leave it as it presently is because that would, a least, make the cases that we chose to prosecute somewhat easier to prosecute. It does leave more discretion in the prosecutor.

SOME FAILURE OF ENFORCEMENT OF ACT

The CHAIRMAN. We will certainly give it very serious consideration.

During the course of our hearings we came across a number of situations which members of the committee believed were covered by the act as presently written, but to which, for one reason or another, the act had not been applied. Since we believe those cases to be covered by the present language of the act, we have not drawn up amendments to deal with these specific cases.

However, in order to avoid the appearance of sanctioning nonenforcement of these situations, we wish to address a number of questions to you, Mr. Katzenbach, in order to confirm our impression that the act does cover these cases, and that amendment is not required.

May I say, incidentally, I do not believe the Department of Justice is uniquely responsible for the failure of enforcement in these cases. The lack of any congressional hearings on this act for a long period of time has no doubt made it difficult not only for the Department but also for the persons to whom the act applies to understand the purposes of the act and the need for its application in particular cases.

I wanted to put a few questions to you to try to elucidate some of these problems.

APPLICATION OF ATTORNEY-CLIENT PRIVILEGE

Can an agent representing his foreign principal on a legal matter successfully claim the attorney-client privilege with respect to any of the records relating to his activities on behalf of the principal which he is required to maintain under the terms of section 5 of the act?

Mr. KATZENBACH. I should think not, Mr. Chairman. I think the extent of the attorney-client privilege is one that Congress can regulate in this respect, and it merely becomes a question as to what the intention of the act is in this respect; and I would think that it was the intention of the act to say that the attorney-client privilege could not be claimed in that regard, and I would think these hearings and

the report that might be written with respect to this act could make that even clearer.

The CHAIRMAN. You see no inhibition in any constitutional or other way that would prevent it from being applied, do you?

Mr. KATZENBACH. No, I do not, not in terms of what we require under section 2 to be divulged.

Now, I can see the point where the intrusion into the attorney-client privilege could be so great hypothetically as to amount to a denial of a man's right to counsel, but not in terms of the sort of matters to be revealed or the books to be kept or anything of that kind.

The CHAIRMAN. That attorney-client privilege really is an outgrowth of the common law, is it not? It has no relation really to this kind of activity.

Mr. KATZENBACH. Well, that is certainly true, Mr. Chairman. I suppose that at some hypothetical point it has a relationship to the right to counsel.

The CHAIRMAN. It could have. In any case, I am glad to have your view for the record.

AGENT'S DISCLOSURE OF INFORMATION

Where an agent is required to furnish in his registration statement information which may be in the exclusive possession of his principal, as, for example, under section 2(a)(3), information concerning the extent to which the principal is under the control of a foreign principal and, as General Klein claimed in our hearing happened in his case, the principal refuses to disclose the information, is it the effect of the act, as you understand it, to prohibit the agent from acting as an agent unless he is able to elicit that information from his principal?

That is a rather involved question, but are you familiar with the circumstances to which I am referring?

Mr. KATZENBACH. Yes, I am, Senator, and my answer to that would be this: I do not believe that if an agent is unable to furnish the information that is required he really can continue to act in that capacity. I think it is reasonable for Congress to prescribe, indeed I think it has prescribed, that certain information has to be furnished.

In terms of criminal penalties, where a man has acted and then has to file a subsequent statement but is unable to secure the necessary information, I think we would have a rather poor case to prosecute. But it seems to me at that point he no longer can continue to act.

Now, there is some doubt as to that, I suppose, which arises out of the litigation such as the *Interhandel* litigation where that defense has been raised. But I really do not think that is persuasive in the context of this legislation, and I believe that you can require a man to cease and desist when he is unable to provide that information or even to be able to prosecute him subsequently.

I think this is an example of where the injunctive power would be extremely useful because I do think that is a tough criminal prosecution when he says, "How could I provide it? I did everything in good faith, and the foreign government wouldn't provide it to me." I think that would be another one of your minor fine situations. But that would be a jury problem rather than a legal problem. I think he really is required to do it.

LACK OF CLARITY WHERE ACTUAL PRINCIPAL IS CONCERNED

The CHAIRMAN. It is quite clear in your mind that where the agent does not make clear in the information he files who his principal is that the injunction would lie, that the agent could not act?

Mr. KATZENBACH. That is right.

The CHAIRMAN. I agree with that conclusion.

Mr. KATZENBACH. You may get a different question as to the accuracy of that information where it is provided by him, and which he cannot vouch for in any other way. That information could be quite inaccurate, and I do not think he would be subject to penalties in view of the source of it.

The CHAIRMAN. Of course, the way the problem arose was when the government was the undisclosed principal or the disclosed principal was a commercial enterprise or a sort of vague committee which actually was dominated by a government which did not appear as the principal.

Mr. KATZENBACH. Yes; which could raise considerable problems of proving that relationship from our viewpoint.

The CHAIRMAN. It is difficult. But with the proper injunctive process, if you were not satisfied that it was clear who the foreign principal was, you could then stop their agent from being an agent.

Mr. KATZENBACH. Yes.

ACT OF 1938 DOES NOT SUPERSEDE OTHER STATUTES

The CHAIRMAN. Does the fact that a foreign agent puts a label, as required by the act, on political propaganda he disseminates relieve him of any obligation he may have under other Federal or State statutes to label the propaganda? For example, as paid advertising?

Mr. KATZENBACH. No, I do not see any reason, Senator, why this law would be or should be interpreted as supplanting any other statute.

The CHAIRMAN. It does not stand in place of, it is only in addition to, then, any other act.

Mr. KATZENBACH. I would think so, and I cannot see any occupation of a field by this kind of statute except possibly with respect to the labeling of propaganda as propaganda. If a State were to pass that kind of a statute it would be conceivable that a court would say that with respect to the activities of the agent of a foreign principal, the Federal Government occupied the entire field, but not with respect to labeling as paid political advertising or some other purpose.

SHORT FORMS FILED WITHIN 10 DAYS AND PERIODIC CHECKS

The CHAIRMAN. Mr. Katzenbach, assuming the Attorney General exercises authority under section 2(7) of the bill to permit the filing of short form registration statements, would you advise the Attorney General to require that such short forms be filed within 10 days of the date upon which the registrant became an agent, and that the short form, like the long form, be periodically renewed every 6 months?

Mr. KATZENBACH. The answer certainly would be, as to the first point where a short form is used, it certainly ought to be filed within 10 days, and any time there is a change in that situation, where other people are included, they ought to file within 10 days.

As to a periodic check every 6 months, which is what, I take it, the question envisages, I think it would probably be a good idea to make sure that the people are complying with the short form by calling their attention to it every 6 months and checking the persons involved to see whether there have or have not been any changes.

AGENCY RELATIONSHIP DEFINED IN ACT

The CHAIRMAN. Suppose an American corporation and a foreign government, as I believe was the case with the Jewish Agency, American Section, and the Israel consulate get together in a joint project to send observers abroad to witness conditions in the foreign country.

Suppose the Government takes care of transportation to the foreign country and the American corporation does the selection of the visitors. Would this sort of joint venture between the foreign government and an American corporation constitute the American corporation an agent of the foreign government?

Mr. KATZENBACH. I think under the present law there would be enough there for a technical agency to exist; that is, simply reading the language of the law. I think that in light of at least one of the cases involved there it might be necessary to show other indicia of an agency relationship. The *German-American Vocational League* case suggested that some of the normal criteria of agency were incorporated into the act, and on taking the facts of your question simply as stated, my answer would be, "Yes," I think that under the language of the act an agency is created. However, I am not confident that a court, without something more being shown, would agree with that literal reading of the act in the light of that one decision.

The CHAIRMAN. That is just one aspect of it.

Mr. KATZENBACH. Yes. I think that is enough to create the agency relationship. But to show other activities would be desirable in order to bring them within the scope of the act.

SIGNIFICANCE OF FOREIGN PRINCIPAL'S OWNERSHIP CONTROL

The CHAIRMAN. Suppose a foreign principal owns all the shares of an American corporation which puts out a newsletter—this is a case somewhat like the Jewish Agency, American Section, which owned all of the shares in the Jewish Telegraphic Agency—is it necessary to show that the foreign principal directly interfered in the newsletter's editorial policy in order to establish that the foreign principal controlled the newsletter which was for that reason its agent, or is it sufficient merely to show that the newsletter was wholly owned by the foreign principal in order to establish that the newsletter is an agent of the foreign principal?

Mr. KATZENBACH. I would think the ownership of all of the shares would be indicative of the control of the newsletter.

The act, as the exclusion contained in section 1(d) is drafted, requires you to establish that, to be within the exclusion, none of its policies are determined by a foreign principal. I suppose that there is something of an inference the other way. In other words, it would be a defense in such a case, Mr. Chairman, even with the complete 100-percent ownership to say that this is a newsletter, a publication, and none of its policies are controlled by the foreign principal.

I would think the fact of ownership would at least raise the inference that they were, but I think it would be a defense to show that they were not in fact, and were completely free in their editorial views.

I confess that kind of freedom from the ownership would seem to me to be a rare bird indeed, and it is not within any experience that I have had.

MOTIVE FOR SUPPORTING A PUBLICATION

The CHAIRMAN. It seems to me it would be a little farfetched. I do not know what would be the motive of supporting a newsletter at a loss, unless the principal had some influence in what was said.

Mr. KATZENBACH. I would tend to agree with that, Mr. Chairman.

I say this: It is at least hypothetically possible that I would have such confidence in you, sir, and in your views, and in what you would say, that I could put you in charge of a newspaper and never interfere whatsoever, even though I owned all the shares, and treat it merely as a business enterprise, or that I would have such confidence that your views would coincide with mine, that I would never have to exercise any control. The issue would be whether the fact of all of the ownership and the fact that you could any minute cut it off, or change the management or interfere, would, be such a threat as to almost insure that your views would coincide with mine.

The CHAIRMAN. I do not know of any case where a newsletter or publication is a moneymaking operation, and that one could subscribe to the idea that it was done for that purpose. It might be persuasive if it really was a profitable undertaking, if they were in it just for the amount of money that they made.

Mr. KATZENBACH. No. At least it is possible, Senator, to believe that a certain group so shares, certain people so share, your general views and approach as to make it a profitable thing from the viewpoint of the principal, not profitable necessarily in money terms but to make it serve your purposes, merely to finance their activities without seeking any further control.

But I do think that the fact of financing their activities, and the possibility of suddenly withdrawing that financial support does create a situation where it is hard to believe that the independence is that complete.

The CHAIRMAN. Of course, the usual reward in this case is not monetary but political opinion which may eventually affect indirectly some other monetary or political purpose.

Mr. KATZENBACH. It is difficult, if you draw a parallel, Senator, it is difficult, to believe, for example, that a legislator, in forming his own independent judgment, remains completely oblivious to the views of those who put them in office, something of a parallel to that situation.

The CHAIRMAN. You do not think of any case offhand, do you?

Mr. KATZENBACH. No.

ITEMIZATION OF DETAILED STATEMENT

The CHAIRMAN. Section 2(a)(5) of the act presently requires an agent periodically to make a "detailed statement" of the money or other things of value spent or disposed of by the registrant on his principal's behalf. I wonder whether, as that requirement is presently interpreted by your Department, a "detailed statement" would require,

for example, a statement showing payments to a Senator or Congressman or to the Public Printer for reprints of speeches in the Congressional Record or could such payments be lumped without itemization under mailing or printing expenses?

Mr. KATZENBACH. I think as it is presently done, if we had any reason to believe that payments to the Public Printer, things of that kind, had been made, I think we would say that certainly ought to be itemized.

The CHAIRMAN. It ought to be itemized?

Mr. KATZENBACH. It ought to be. I think if it is to a lot, a variety of different printers for just printing expenses unconnected with the situation as you gave it in the question, probably we would not care whether they used the Brown Printing Co. for one document, the White Printing Co. for another. So I think the difficulty there is that we might not under the present rules require itemization in every case, though—we could require under the present rules that that sort of thing be itemized. We probably should.

It would be a question of specifying what sort of thing ought to be itemized, because it only becomes important who prints it if there is some further relationship such as suggested in your question. Other than that we would not object to their lumping printing costs by several different private printers.

CURRENT REGULATIONS ON DETAILED REPORTING

The CHAIRMAN. Does the Department currently have regulations giving instances of, or interpreting the requirement of, detailed reporting?

Mr. KATZENBACH. No, we do not, and I think we should. I think we can do so in the light of the sort of problems that this committee has brought out, and we will attempt to do so, sir.

The CHAIRMAN. Would you agree that the degree of detail required should depend on the importance of each detail in achieving the agency's purpose, and that purchases of congressional reprints should not be allowed to be lumped together with other printing expenses because they naturally and inherently have a somewhat different significance from the printing of their own stationery, for example?

Mr. KATZENBACH. I agree entirely, Senator.

The CHAIRMAN. Your regulations could do that?

Mr. KATZENBACH. We could take steps to do that.

SIGNIFICANCE OF ITEMIZING "THINGS OF VALUE"

The CHAIRMAN. Would the requirement of section 2(a)(5) which I just quoted, that the disposition of "things of value" as well as money be reported, oblige an agent to disclose as an expenditure taking an example which arose in the Hamilton Wright organization hearings, the fact that Hamilton Wright gave away films, one of them, I believe, worth up to $50,000, to U.S. film distributors who thereafter showed them to theater audiences?

Mr. KATZENBACH. Yes.

The CHAIRMAN. Would the requirement of a detailed report in these instances require the itemized listing of the names of the film distributors receiving such gifts?

Mr. KATZENBACH. Yes, they should, Senator.

The CHAIRMAN. The use of these valuable gifts as an inducement for cooperation with the foreign principal raised another question for the committee. Are you able to conceive of circumstances under which the receipt of these so-called gratuities or the signing of a contract whereby property rights in a valuable film were given a film distributor in consideration of $1 in hand paid, would be evidence that the recipient of the gratuity or the party to the contract was, in fact, an agent of the foreign principal whose duties were to write favorable stories or to disseminate the film?

Mr. KATZENBACH. Yes, certainly I can conceive of those circumstances. I do not think there is any question about it, if he agrees, in return for the receipt of the film, to distribute it, for example. There is some difficulty posed here if he makes no agreement whatsoever when he gets the film. The receipt of a valuable gift, followed by its subsequent use and distribution, would be evidence that an agency relationship existed. Whether it would constitute adequate proof of that without something more I think is more doubtful.

SPOT CHECK SYSTEM ON AGENTS

The CHAIRMAN. Does the Department have any spot check system to review these expenses of agents?

Mr. KATZENBACH. We do, Senator, by the fact that when the expenses come in and we believe that they are not adequately broken down, we then request some further itemization and further clarification. But we have not used a spot check similar, for example, to an Internal Revenue spot check. We have rather followed the idea that we keep an eye on the ones where the expenses are large. But it is very difficult where the expenses are fairly well itemized, and this has been our experience, even with some of the people who came up and testified here, where we would regard the statement of financial expenses, expenditures, as being a very good one in terms of all of the detail that it went into, and then subsequently discover it is not a very accurate one.

It is very hard to spot that without some further information where you find that one of the items was, for example, an item to pay the expense of newspaper reporters to travel, but is not carried as such in the form, yet in the form as you read it, the expenditure is a plausible one.

EFFORTS BY DEPARTMENT REGARDING FILM DISTRIBUTORS

The CHAIRMAN. Has any effort been made by the Department to have the film distributors involved in the *Hamilton Wright* case register? Have you had any contact with them?

Mr. KATZENBACH. No, we have not.

Mr. Lenvin tells me we have no evidence of any agreement to distribute, which raises the difficulty. Perhaps some further investigation would bring to light an agreement of that kind. But there is the problem of proof that I indicated, and it is not completely an implausible situation, that is, I can understand if I made up a pretty good film which did have value, and I offered to give it to someone, and he was in the film distributing business, I would not necessarily have to secure an agreement from him that he would, in fact, distribute it. I

might simply rely upon the fact that it was a valuable piece of property, a good film, and I thought by making him this gift he would, in fact, distribute it, which would raise the difficulties that I suggested before.

The CHAIRMAN. Of course, I think some of the distributors may not have realized just what the purpose of the film was.

Mr. KATZENBACH. That is possible.

The CHAIRMAN. An inquiry, a suggestion, even on your part or the Department's part, that this is part of the foreign agent's activities might in itself be effective.

Mr. KATZENBACH. I think you are quite correct about that, Senator. We have done this in the case of TV films in some instances.

The CHAIRMAN. You have done it?

Mr. KATZENBACH. Yes.

GRANTS BY A FOREIGN PRINCIPAL

The CHAIRMAN. I would ask the same question with respect to so-called subsidies or, as they were called by the Jewish Agency, American Section, grants and subvention. Can you conceive of circumstances under which something called grants or subsidies by a foreign principal to a domestic group would make that group an agent of the foreign principal?

Mr. KATZENBACH. Well, I do not think there is any question again in terms of the act that the receipt of money of that kind does bring you within the agency definition of the act, but you may be within one of the exemptions contained in the act.

DISTINCTION BETWEEN RELIGIOUS AND POLITICAL ACTIVITIES

The CHAIRMAN. What would be an exemption in this case?

Mr. KATZENBACH. Religious, scholastic, academic, scientific pursuits, pursuits of the fine arts, and so forth.

The CHAIRMAN. Of course, here again the distinctions are very difficult because very often these activities are related to religious activities.

Mr. KATZENBACH. Yes, that is right, Senator; and it again goes back to what I have said before, that being able to test this in the context of an injunctive suit is far easier than testing it in the context of an alleged felony because there could be quite sincere differences of view as to what constitutes a religious activity and what does not.

The CHAIRMAN. This is particularly true where you have governments which are identified so closely with certain religions.

Mr. KATZENBACH. That certainly complicates it greatly.

The CHAIRMAN. The distinction between the political and religious aspects of their activities is often very difficult to determine. But where they clearly do have political objectives and overtones, it seems to me it ought to be resolved in favor of their itemizing and registering under these circumstances.

Mr. KATZENBACH. I would think so, Senator. Again I think where sincere differences exist as to this, to be able to test it by our contending that they ought to register and their being given the opportunity to contend they should not, without facing the penalties of a felony, is going to make that aspect of clarification a lot easier in the future.

The CHAIRMAN. I agree. I think that is a very good illustration of the proper action.

ISRAELI DIGEST'S AGENCY RELATIONSHIP

Along the same lines, we had, as I recall some cases, one involving a newsletter called the Israeli Digest, in which a domestic publication, in this case the Digest, received a sum of money from a foreign source to pay for subscriptions for approximately 50 percent of the newsletter's circulation.

Can you conceive of circumstances in which arrangements such as these could be evidence of an agency relationship?

Mr. KATZENBACH. I certainly think that they are evidence of an agency relationship. I think the answer to that question again is whether or not it comes within the exclusion. A contention can be made that there is no control by the foreign principal over the contents of the publication, and it may be difficult to disprove that. I really go into the same inferences we raised before with respect to this.

The CHAIRMAN. The same. As a matter of fact, without the arrangement for subscription there would probably not be any publication. That is what really kept them going.

Mr. KATZENBACH. Yes. I am sure that almost any publisher would like to have half of the subscriptions paid for.

FREE TRIPS ABROAD TO NEWSMEN AND OTHERS

The CHAIRMAN. During the course of the committee's investigation we came across the use of free trips for American newsmen by public relations men in foreign governments as a means of getting favorable stories into the American press.

To meet this situation, I believe the foreign agent or the Government Information Office should be required to list in his filing with Justice the fact that they arranged such a trip along with the name or names of the people receiving the trip.

I might add that the giving of such trips is not limited to newsmen. We saw in some cases these free trips going to university professors, local public officials, and even religious leaders. People were apparently chosen because of their standing in their respective communities.

Our intent is not to stop such trips. Certainly anyone is well within his rights either to offer or accept such a trip.

There is a feeling, however, that such trips should be reported as an activity along with the names of those taking the trips and any expenditures paid by the agent.

My question, Mr. Katzenbach, is, Do you believe without specific language in the act the Department of Justice can, by regulation, require these particular facts to be reported?

Mr. KATZENBACH. Yes, I do, Senator; and we now do it.

IMPLICATIONS OF USIA AMENDMENT TO BILL

The CHAIRMAN. As you know, the USIA is suggesting an amendment to this bill which would have the effect of exempting foreign government information officers from reporting in detail on their

activities and expenditures. The committee, as you know, has not studied the situation involving diplomatic representatives, and has few facts in this area. Does the Department of Justice support the adoption of this amendment?

Mr. KATZENBACH. I think that Mr. Wilson will be a far better witness than I on that; and, like this committee, I have very little in the way of fact to base my view on, and I suspect that he has a great deal.

The CHAIRMAN. You do admit that this could open up some problems in getting enforcement of the act as we suggest in the proposed amendment, could it not?

Mr. KATZENBACH. Unquestionably it will from our domestic viewpoint, and I think the committee would have to consider the balancing of what we would like to do in this country as against what we would like to do abroad, and there may have to be a sacrifice in one area or the other, and it may be difficult to accomplish both objectives.

The CHAIRMAN. It seems to me that some distinction might be drawn between the activities that are wholly directed and controlled from the embassy itself, and these other activities of information officers who are maintained separate from the embassies. Some countries do that, as you know, and some of them are not registered.

Mr. KATZENBACH. Well, we presently draw that kind of a distinction in the enforcement of the act. That is, if it is wholly directed from the Embassy there is no registration requirement.

WILL LOOPHOLE BE OPENED UP?

The CHAIRMAN. The only thing that bothers me about it is whether or not this would open up a loophole which would enable evasion of the registration requirements.

Mr. KATZENBACH. Well, Senator, I think that risk is there, and that possibility certainly exists.

I think the difficulty, I would guess, would be this: That we are interested in engaging in various informational activities in foreign countries, and we feel that these activities would in some ways be inhibited if detailed requirements were imposed upon us by the foreign governments. We suspect at least this is the position. It is likely that it will occur if we do that with respect to somewhat similar information activities conducted in this country I think what one has to do is to make a judgment about the two. While there is a question of making the administration of the act somewhat more difficult here, I think it might be possible to refine the exceptions that were given, and I think it might be possible for this committee to come to the conclusion that it was more important for us effectively to encourage penetration in the various more closed societies than it was to enforce this act here in a society where there is an opposite point of view.

U.S.-OWNED FOREIGN CORPORATIONS

The CHAIRMAN. The question has been raised concerning the application of the committee's amendment to foreign corporations which are either wholly owned subsidiaries of a U.S. corporation or majority owned by U.S. citizens.

My first question is whether it is true that the act, as presently written, treats such foreign corporations as foreign principals whose agents must register under the act unless exempted?

Mr. KATZENBACH. Yes, that is correct.

The CHAIRMAN. The problem raised with respect to these U.S.-owned foreign corporations is that some difficulty is anticipated in deciding when the activities of a particular agent are on behalf of the foreign subsidiary and when they are on behalf of the American parent.

I wonder, first of all, whether it would be, in your opinion, an insurmountable problem to differentiate between these two cases.

Mr. KATZENBACH. You have to assume, first, that none of the exemptions apply to this particular activity. Most of these, I suspect, are within the commercial exemption.

The CHAIRMAN. Most of them are, but some are not.

Mr. KATZENBACH. Then I would think it would not be an insurmountable difficulty. I think that really in this sort of instance one can go along fairly well on form. If you are acting for and being paid by the foreign subsidiary of the domestic corporation that in itself ought to really be enough, and I would think there is no particular advantage to the Government in that instance in piercing corporate veils or attempting to decide which way it would be done.

I think the more difficult cases are those in which one is where you are acting on behalf of and paid by the American entity, whereas the activities really are more closely related to the foreign subsidiary. I think that is the more difficult case, and I suspect one could get by in that instance, in most instances, without a registration.

DETERMINING APPLICABILITY OF LAW TO POTENTIAL REGISTRANT

The CHAIRMAN. What procedure does the Department have in general to aid a person who is not certain whether the act applies to him or not, to resolve complicated factual situations of this sort, short of resorting to litigation in the courts?

Mr. KATZENBACH. Well, this is one of the few areas in which the Department of Justice gives gratuitous advice. The office is available, too, and it is very frequently used by, people either writing or telephoning or coming in personally and saying, "Here is my situation. Do I have to register or not?"

Where they divulge candidly all of the facts we have told them either that they did or did not have to register. I think we have, in general, advised them that if it was a close situation there was no particular reason not to register, and that they would be better off to register in such a situation because the facts of the relationship may shift a little bit in the future, and it is on the facts at a given time that you advise them they do not have to register.

Six months or twelve months later they may be doing something a little bit different or be in a little different relationship, and still think they are exempt, and actually have gone across the line.

So with close instances I think we normally advise them that it would be better to register. But we do give advice, and I think that is indispensable in this kind of an act to continue to do it. Our problem has been when our advice is not followed, and it is a close case.

The CHAIRMAN. You have no injunctive problem that you think would go far enough?

Mr. KATZENBACH. Yes, I think in many ways that is the most valuable tool that we could get, because—well, I think of an example of

people who have insisted that they are not obligated to register when we believe that they are and where their counsel is willing to advise them they have no obligation to register. That is a poor criminal case.

ADOPTION OF SPECIFIC ACCOUNTING PROCEDURES

The CHAIRMAN. One provision of the bill which the committee is considering will give the Attorney General the power to provide by regulation for the adoption of such accounting practices by persons registered as foreign agents as the Attorney General may decide are necessary or appropriate to facilitate compliance with the act. This has been brought up in more than one case of an agent who had not reported his expenditures—the *Davidson* case was an example of this—because he believed his expenditures could not be directly traced to his foreign principal. He, in effect, claimed his expenditures were made on his own behalf and not on behalf of his foreign client.

We believe many of these expenditures were made specifically to assist the client, and we hope through this amendment to assist the Attorney General in his effort to require an agent to segregate and, therefore, report all expenditures for or in the interest of his foreign principal.

Would you care to comment as to how far you think the Attorney General can go under this language to require the adoption of the specific accounting procedures?

Mr. KATZENBACH. I think it is a very valuable provision and I think that it gives the Attorney General all of the authority that would be needed to uncover and bring into the orbit of our knowledge and the public's knowledge what these expenditures are.

I do not envision any difficulties in prescribing uniform accounting methods that have to be used, and I do not see any difficulty with our being able to do it. It is done all the time by other agencies in other contexts who insist that books and records be kept in a certain way. I do not see why the Attorney General should not be able to prescribe it equally as well.

The CHAIRMAN. Do you have any other suggestions that you care to make? We appreciate very much your cooperation, and if you wish to submit any additional amendments, we would welcome them before finally taking any action on this bill.

Mr. KATZENBACH. Thank you, Mr. Chairman. I believe that with the exception of the points we have already raised for your consideration and, perhaps, for some clarification possibly of the injunctive power or the power to have somebody cease and desist, that the amendments that the committee has proposed are excellent ones and should do much to clarify and improve the situation in the future.

The CHAIRMAN. Senator Sparkman, do you have any questions?

NO INJUNCTIVE POWERS IN EXISTING LAW

Senator SPARKMAN. Do you not have any injunctive powers now in connection with this law? I assume if there is a clear violation of it, you do have, do you not?

Mr. KATZENBACH. I think not, Senator. There have been a couple of instances of a declaratory judgment, but this is where the action is brought not by the Government but by a potential defendant, and he

has the capacity to go into court and say that the Government is threatening him with a criminal prosecution if he does what he is entitled to do, and he can get a declaratory judgment on it. We do not have the same sort of power, and it is not normally possible to enjoin the commission of a crime. Normally your remedy is to prosecute for the crime when it is committed.

Senator SPARKMAN. Is it just prosecution or not?

Mr. KATZENBACH. Pretty much in those terms.

I quite sincerely believe, as I think I said when I testified before to this committee, that that choice of doing nothing in an unsatisfactory situation or prosecuting for a felony has led to some of the difficulties with enforcement which have come to the attention of this committee.

CEASE-AND-DESIST ORDER

Senator SPARKMAN. What you are asking for here is really the right to start a court proceeding that would have for its purpose a cease-and-desist order.

Mr. KATZENBACH. That is right.

Senator SPARKMAN. But it would be a court proceeding.

Mr. KATZENBACH. Yes; come in and show cause why you should not register.

Senator SPARKMAN. Show cause in court.

Mr. KATZENBACH. In court.

Senator SPARKMAN. In other words, it is not an administrativet agency proceeding.

Mr. KATZENBACH. No. We have contemplated, and I think the committee might consider, the possibility of allowing us to say, "Cease and desist," and require a defendant to go in to remove that cease-and-desist order in court rather than require us to go into court in the first instance. But I do not feel strongly about it. We can go into court with injunctive proceedings.

Senator SPARKMAN. I certainly would feel that your first suggestion is correct, that is, to go into court and seek an order to cease and desist.

Thank you, Mr. Chairman.

CLARIFICATION OF INADEQUATE REGISTRATION

The CHAIRMAN. For example, where the details are clearly inadequate or there was no itemization at all, you should be able to have injunctive relief. It should be so clear that you might be given the power to just not accept it and say, "This is not an adequate registration and until you do file an adequate one or reasonably adequate one, it is not approved." You have never rejected or declined to receive a registration, have you?

Mr. KATZENBACH. Yes, we have upon occasions.

The CHAIRMAN. What happened in a case like that?

Mr. KATZENBACH. In some of those instances they have taken it back and filed a more adequate one. I do not mean that the threat of potential prosecution has been totally inadequate to get compliance with the act. I do not want to overstate the case for that either, Senator, but more often than not where the registration statement has been

80 percent a good registration statement, but some provisions of it we thought were inadequate, it has been accepted, but we have asked them to clarify or expand on the other.

PENALTIES HAVE NOT BEEN SEVERE ENOUGH

The difficulty there is that they have not taken us very seriously about it, and sometimes you run into very long delays. So that is the reason for wanting something that says, "All right, you stalled around on this long enough. Now stop acting until you comply in all the necessary detail."

I believe that the threat of injunctive relief here will, in most instances, be adequate to get the complete statement and to get it pretty quickly.

I think we will actually have to ask for injunctive relief in those instances we talked about before where there is a completely sincere difference of opinion as to what the activities consist of, and I think there is going to have to be evidence and a trial and a judicial determination.

The CHAIRMAN. I have already remarked concerning your earlier cases that even with having the power to use rather severe penalties, the penalties were very slight. They have not been severe enough to deter anybody very much. I think $500 was the largest fine I saw. I did not know that any of them were imprisoned.

Since 1944 how many cases have you had?

Mr. KATZENBACH. I have forgotten the number; less than 10 certainly.

Mr. LENVIN. About nine, I think, since that time. But of that nine, the Rumanian American Publishing Association was fined, it is my recollection, $2,000.

The CHAIRMAN. $2,000?

Mr. LENVIN. Yes.

The CHAIRMAN. I glanced through the list, and the largest, to my recollection, was $500.

Mr. LENVIN. Actually the only $500 fine was in the case of John Joseph Frank.

Mr. KATZENBACH. Certainly most of them have been minor penalties. Of course, Senator, the penalty of being convicted of a felony, even if the fine was small or if no jail sentence was imposed can, in many instances, be a very heavy penalty indeed, just simply to have a conviction. This is not true in the corporate situation but in the individual situation to have been convicted of a felony, for example, in the case of a lawyer, amounts to automatic disbarment in most instances. I do not know whether a year in jail added to that adds very much when he has that kind of a penalty, and it has been a pretty heavy penalty that he has had, and this may be in the mind of the courts in terms of their sentencing.

I suppose the same thing is true of a public relations firm, something of that kind.

PLEA OF NOLO CONTENDERE

The CHAIRMAN. Have not a large number of them pleaded nolo contendere?

Mr. KATZENBACH. Yes.

The CHAIRMAN. In other words, you never brought the case until it was open and shut. When there was no doubt, they pleaded nolo contendere.

Mr. KATZENBACH. Yes.

Well, in regard to the nolo contendere plea, the Department of Justice has tended to oppose them less in this area because the purpose of the act is to put the facts on public view and display, and in the instances where a nolo plea has been made under this act, it has always been accompanied with a full disclosure within the terms of the act, so that one can argue that the purpose of the act has been served by that disclosure.

The CHAIRMAN. Has Mr. Cassini filed a full disclosure of his relations as a result of his nolo contendere plea?

Mr. KATZENBACH. I believe that before sentence in that case and before the nolo contendere plea is formally accepted by the court, such a registration statement will be filed.

The CHAIRMAN. Will be filed?

Mr. KATZENBACH. He has not yet presently filed one. It is in the process.

The CHAIRMAN. He has not yet filed?

Mr. KATZENBACH. It is in the process.

The CHAIRMAN. But he will file one before the plea is accepted?

Mr. KATZENBACH. I assume that will be true. That, of course, is up to the court, not up to us. It would be our position that such a statement should be filed.

The CHAIRMAN. That has been in the past?

Mr. KATZENBACH. It has been in the past.

The CHAIRMAN. Thank you very much, Mr. Katzenbach. You have been very helpful.

Mr. KATZENBACH. Thank you, Senator.

The CHAIRMAN. Our next witness is Mr. Donald M. Wilson, Deputy Director, U.S. Information Agency.

Mr. Wilson, we are very pleased to have you.

Before we proceed, I would like to insert in the record a letter received by the committee from the U.S. Information Service on November 15, 1963, in support of the bill.

(The letter referred to follows:)

U.S. INFORMATION AGENCY,
Washington, November 15, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Foreign Relations Committee,
U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter to Mr. Murrow enclosing Senate bill 2136 and your explanatory statement.

As you state in your comments, the bill meets situations disclosed during the committtee's investigation into the activities of nondiplomatic representatives of foreign principals. We are in complete agreement with your attempt to more thoroughly enforce the Foreign Agents Registration Act in its control of the activities of nondiplomatic agents through more effective disclosure.

Mr. Murrow's letter to you of August 15, 1963, spelled out the intense interest of our Agency is amending the Foreign Agents Registration Act as it deals with diplomatic agents of foreign governments. The State Department agrees with us that official Government information offices, officials, and staff members of such offices should be exempt from the requirement that they register as foreign agents. These would be under the direction, supervision, or control of a duly accredited diplomatic or consular officer, and would be engaged exclusively in activities recognized by the State Department as within the scope and functions of such office, official, or staff member.

I am attaching a proposed amendment to the Foreign Agents Registration Act which would accomplish this result. We have consulted with the Department of Justice and it has no objection to this amendment.

I am pleased that the Agency will have the opportunity to discuss this proposed amendment before the committee.

Senate bill 2136 does not, at the present time, in our opinion, distinguish between the activities of nondiplomatic agents and diplomatic agents. Should the Congress amend the Foreign Agents Registration Act to exempt official governmental information offices, officials, and staff members, the other sections of the Foreign Agents Registration Act will have to be modified accordingly. Should this exemption not be passed, the attached comments on Senate bill 2136 are apropos.

The Bureau of the Budget advises that it has no objection to the submission of this letter and its enclosures from the standpoint of the administration's program.

Sincerely,

DONALD M. WILSON, *Acting Director.*

MEMORANDUM FROM THE U.S. INFORMATION AGENCY TO SENATE FOREIGN RELATIONS COMMITTEE, ATTACHED TO LETTER DATED OCTOBER 1963 TO SENATOR FULBRIGHT FROM DONALD M. WILSON, ACTING DIRECTOR

Re comments on S. 2136, a bill introduced on September 10, 1963, by Senator Fulbright and Senator Hickenlooper to amend the Foreign Agents Registration Act of 1938, as amended

The Agency is in complete agreement with the main purpose of the bill to insure a more thorough enforcement of the activities of nondiplomatic agents of foreign principals. The Agency is deeply concerned, however, that the bill does not distinguish between the activities of nondiplomatic agents and the official governmental information offices, officials and non-American employees of foreign countries.

The Agency has encountered difficulties with certain governments when they are requested to comply with the Foreign Agents Registration Act, because they consider it demeaning. For example, they object to registering with the Department of Justice, our counterpart of their Ministries of Justice, the criminal arm of their governments; whereas they would not object to coordination and control by the Department of State, the recognized diplomatic vehicle, with which they customarily file notification of status and personnel (form D.S. 394).

The provisions of the bill would tighten the requirements of registration and filing and would, doubtlessly, if applied to governmental information offices, increase the friction already generated by the act. If the bill does not distinguish between nondiplomatic agents of foreign principals and official governmental information offices, we cannot predict categorically that reprisal will not occur against the USIA missions abroad.

A review of the bill evokes the following comments anent this problem.

"Subsection 2 (3) and (4) which amend subsections 2(a) (4) and (6) of the act by requiring 'a detailed statement of any such activity which is a political activity.'"

In view of the extremely broad definition of "political," virtually every governmental information office will be so engaged. The prospective forced declaration by diplomatic information missions that they are engaged in political activity will likely augment to a great degree the difficulties we have described. This problem would become moot, of course, if the Congress would enact the Agency's proposed exemption of governmental information offices, officials, and personnel or would require their registration only with the Department of State.

"Section 4(4) of the bill which amends section 4 of the act by adding a new subsection (e) requiring in effect that a foreign agent preface any statement, falling within the extremely broad definition of "political propaganda," which he makes to a member of the U.S. Government (Congress or the Executive) with a statement that he is registered as a foreign agent under the act."

Obvious and painful would be the consequences in the relationships of our officers abroad with foreign ministries of information should foreign governments enact such a requirement.

The exemption authority granted the Attorney General by section 2(7) of the bill is a step in the right direction, but is inadequate. It is limited to instances in

which there is an existing registration. We urge that it be broadened to make possible exemption by or upon the recommendation of the Secretary of State and independently of any other registration.

You invite our recommendations for amending legislation to strength the labeling provisions of the law. Disclosure, the true purpose of the act, would be effected by official governmental information offices by the requirement that all material disseminated be identified as emanating from that office. Further, each office would supply copies of all material disseminated to the Secretary of State, who in turn would supply copies to the Attorney General. The Secretary would, in this area as in others, determine when the material exceeds the permissible range of the diplomatic function, and would exercise his authority to declare offending foreign officials persona non grata.

As to nondiplomatic agents, the Agency finds it entirely appropriate to require labeling not only to identify the source to the various media or other intermediary parties, but also to the general public.

AMENDMENT TO SECTION 3 OF THE FOREIGN AGENTS REGISTRATION ACT PROPOSED BY THE U.S. INFORMATION AGENCY

Section 3 is further amended by adding a new subsection (d) as follows, and renumbering the succeeding subsections accordingly.

"(d) Any official information office of a foreign government under the direction, supervision or control of a person exempted from registration under section 3(a) hereof, and any official or member of the staff of such office who is not a citizen of the United States and whose name and status and the character of whose duties are of public record in the Department of State, provided that said office, official or member of the staff is engaged exclusively in activities recognized by the Department of State as within the scope and functions of such office, official or member of the staff; and provided further that copies of any material disseminated by such office, official or member of the staff shall be identified as being disseminated by such foreign government and shall be filed with the Department of State."

Section 3 (b) and (c) are further amended by inserting "unless such information-service employee is exempted under subsection (d) below" after the words "information-service employee" and before the comma.

The CHAIRMAN. You have a prepared statement, I believe?

Mr. WILSON. Yes, I do, Senator.

The CHAIRMAN. You may proceed, sir.

STATEMENT OF DONALD M. WILSON, ACTING DIRECTOR, U.S. INFORMATION AGENCY; ACCOMPANIED BY DAVID PARSON, DEPUTY GENERAL COUNSEL

Mr. WILSON. We appreciate the opportunity to appear before this committee on S. 2136 as it relates to our oversea information activities. We hope particularly to discuss our proposed amendment to the Foreign Agents Registration Act. As I am sure the committee knows, we have recommended that the official information offices of foreign governments, their officers, and staff members be covered by specified State Department procedures, rather than by registration with the Department of Justice.

We are in wholehearted agreement with the efforts of this committee to legislate the greatest degree of disclosure. This is the objective of Foreign Agents Registration Act, it is the objective of S. 2136, and we fully support S. 2136 as it relates to nondiplomatic agents.

Although this committee has occupied itself with nondiplomatic activities, we are concerned that the amendment now before the committee, if enacted, would include and inhibit legitimate diplomatic activities.

USIA AMENDMENT CONCERNS DIPLOMATIC AGENTS

We are convinced, Mr. Chairman, that the amendment we have offered would in no way lessen or weaken disclosure, the prime objective of the act. At the same time, it is in keeping with established diplomatic procedure and it would lessen the possibility of retaliatory action against the oversea information activities of our own Government.

The act now exempts from registration in subsection 3(a)—

a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer.

This exemption is consistent with the international law and practice, and it recognizes the statutory immunity of ambassadors and ministers from arrest and service of process. Further, it is consistent with the practice of most nations to respect the confidential nature of diplomatic and consular archives, and to exempt diplomatic and consular officers from prosecution for acts performed in the course of their official duties.

But more important, this exemption of diplomatic and consular officers from registration, even though engaged in information work, has not weakened the objective of the act—disclosure. Information about these officers is on record at the Department of State.

EXEMPTION FOR OFFICIAL GOVERNMENT OFFICES, ETC.

We propose to carry this concept a step further, while at the same time providing procedures for the identification of the source of information materials from foreign sources and the foreign persons engaged in information activities.

Thus, we would exempt from registration the official, and I emphasize "official," Government information offices, officers, and staff members, in the United States:

Provided, first, that they are not Americans;

Provided, second, that their activities are recognized by the Department of State as being within the normal scope of official information activities;

Provided, third, that all their material is identified as to source; and

Provided, fourth, that copies of all their material are sent to the Department of State.

We believe that this amendment will accomplish the objective of full disclosure. The names and addresses of officially accredited foreigners engaged in information activities and copies of all materials they disseminate would be on public record. Further, all materials directly disseminated would be identified by source.

COMPLETE REGISTRATION WITH STATE DEPARTMENT

Further, to assure that the purposes of the act are carried out, we and the Department of State propose that official Government information offices operating here, although not registering with the Department of Justice, be required administratively to provide the State Department with other information about their activities.

This information would include the names of public relations people and firms and other contractors employed for services and goods, giving the Department of Justice a check against its list of Foreign Agents Registration Act registrants. It would also include the total volume of distribution for each item disseminated. The State Department would provide copies of this information to the Department of Justice where, with the registrations of nondiplomatic agents, there would be a complete and central public record of information distributed by or on behalf of foreign powers under the law.

CURTAILMENT OF GOVERNMENT'S OVERSEA PROGRAMS

We are convinced that this approach would achieve the purposes of the act, as you propose to amend it, Mr. Chairman, without risking curtailment of our Government's oversea information activities. Except in totalitarian countries, our official information activities have not been subjected to the kind of controls imposed by the Foreign Agents Registration Act.

We are recognized as part of the diplomatic establishment, whether or not we are housed in the chancery and whether or not all American USIA employees bear diplomatic passports. As a matter of fact, most of them do not.

Our USIS offices have not been required to submit financial statements and the listing of speeches, lectures, broadcasts, publications, et cetera. We have not been required to make the periodic statement that we have or have not engaged in political activity that would be required under S. 2136. If we were subject to similar requirements in other countries, it could seriously reduce our effectiveness.

USIA ACTIVITIES ARE DIPLOMATIC

I recognize, of course, the passage of S. 2136 in its present form might not lead immediately to the adoption of similar legislation or regulation in the countries where USIA works. In many countries, the authorities welcome our activities in the common cause of a community of free nations, and restrictions on USIA would be self-defeating from their point of view. In others, there are different controls which serve the purposes of the government concerned, most commonly motion picture and television censorship, less commonly direct or indirect control of the press. Yet the possibility of retaliation exists. It is for that reason we would prefer to accomplish disclosure of diplomatic activities under diplomatic procedures.

Let me illustrate. A ranking West European diplomat called on Mr. Murrow in 1961 and complained of what he called the demeaning aspects of the Foreign Agents Registration Act. He pointed out that no such restrictions were being applied to USIA in his country. Unlike our own conception, he and many other foreigners regard our Department of Justice as concerned almost exclusively with criminal activities, the prosecution of felons, the pursuit of public offenders. In his view, registration with the Department of Justice would change the status of his office from that of an official diplomatic arm of his government to that of an "agent"—with all that the word implies—of a foreign government, perhaps with evil designs.

He took the position that this would be tantamount to reducing an official diplomatic undertaking by an allied government to the level of a suspect public relations firm lobbying in behalf of a special interest. This official, like others who have raised the question, would not object to furnishing the Department of State the information that would be required for the Department of Justice under the Foreign Agents Registration Act.

His position is, in fact, consistent with our own. As a government, we have maintained for years that official information activities—and I stress the word "official"—are a legitimate diplomatic activity.

The principle has long been acknowledged by the diplomatic accreditation of USIA personnel in other countries, and our own diplomatic accreditation of information, press and cultural counselors and attachés.

DEFINITION OF OFFICIAL DIPLOMATIC FUNCTIONS

The official information activities which are within the recognized diplomatic scope should be defined, of course. We and the State Department have agreed to these criteria:

First, we believe the following activities are properly part of the diplomatic function:

1. Preparation and dissemination of descriptive information concerning the people; the scientific, educational, social, economic, political, and legal institutions; and the geography of the country;
2. Dissemination of speeches of officials of a country;
3. Preparation and dissemination of the position of a country on current and proposed U.S. foreign policy directly affecting that country;
4. Promotion of exhibitions concerning a country;
5. Reasonable representational activity.

DEFINITION OF IMPROPER ACTIVITIES OF INFORMATION SERVICE

Secondly, we believe the following activities are not proper activities of an official government information service and should be prohibited:

1. Attacks upon other countries or governments represented in the United States;
2. Attacks on the institutions of the United States;
3. Comments on U.S. domestic issues;
4. Material designed to promote religious or racial dissention in the United States;
5. Material designed to influence the outcome of elections in the United States;
6. Financial or other contributions to political campaigns or efforts to influence elections in the United States;
7. Control of newspapers, television or radio stations, or other media of communications in the United States;
8. Disseminating an inordinate amount of material;
9. Receiving income from the conduct of the office or dissemination of material, or engaging in tourist promotion.

In addition to the application of these criteria, the U.S. Government would continue to exercise sovereign powers to control abuses. In flagrant cases, the traditional declaration of persona non grata

is available, as well as the issuance or nonissuance of diplomatic visas.

DIPLOMATIC FUNCTIONS CONTROLLED THROUGH STATE

In essence, Mr. Chairman, our case rests upon four points:

(1) Official information activities as distinguished from those of nondiplomatic agents, are a recognized diplomatic function, long sanctioned by our Government and most others.

(2) Such official activities should be controlled through diplomatic channels.

(3) This control is desirable and can be achieved successfully under the Department of State.

(4) This approach will avoid the possibility of retaliation against the oversea information activities of the United States.

Mr. Chairman, I appreciate the opportunity to be heard on this bill. We support this committee's objective and will contribute in any way we can to reaching it.

Mr. CHAIRMAN. Thank you, Mr. Wilson.

DIPLOMATIC FUNCTIONS CONTROLLED THROUGH STATE

Do I understand that your complaint is also directed not only at the proposed bill but at the existing law before we amend it? Is that correct?

Mr. WILSON. Yes, sir. There have been complaints under the present law, and I think we are concerned that the proposed amendment might increase the volumes of complaints and lead to possible retaliation.

The CHAIRMAN. I was not aware that there had been instances of complaint under the present law. What was the nature of the complaints?

Mr. WILSON. I would say this, that throughout the years we have had a number of low-level complaints from a variety of governments. I can think of four specific complaints on a high level by foreign governments to us.

Essentially the complaints boil down to the feeling that they should not be required to register with the Department of Justice. They compared the Department of Justice to their own Ministries of Justice, and they tend to think of these ministries as arms of the government concerned with criminal affairs.

The CHAIRMAN. Would this be cured by requiring these reports to be filed with the Department of State rather than with the Department of Justice?

Mr. WILSON. We think it would, sir. We think this is—what we are talking about here are official diplomatic activities, and we think if they are kept within official diplomatic channels, the State Department, it would make a large difference.

The CHAIRMAN. Would it satisfy you if that were the required procedure?

Mr. WILSON. Yes, sir; it would.

The CHAIRMAN. I can understand, since even in this country there seems to have arisen some criticism of the Department of Justice, not wholly warranted, however.

CONSEQUENCES OF SIMILAR REQUIREMENT BY FOREIGN GOVERNMENTS

I believe you stated that the provision requiring a foreign agent to identify himself and his principal when speaking to U.S. Government officials would result in obvious and painful consequences in the relationships of our officers abroad with foreign Ministries of Informatioon, should foreign governments enact such a requirement. Do you think it would be demeaning to you or to your people to have to identify yourself when you speak to foreign officials? You do not suffer from this same feeling?

Mr. WILSON. You mean, are you referring to our information officers and offices?

The CHAIRMAN. I refer to a similar requirement on the part of the foreign government.

Mr. WILSON. I don't think it would be; yes, sir.

Senator SPARKMAN. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes, go ahead.

USIA AMENDMENT TO EXISTING LAW

Senator SPARKMAN. Why, Mr. Wilson, in making these claims that they are diplomatic functions, and diplomatic duties, would they be covered by this bill?

Mr. WILSON. Well, Senator Sparkman, I realize that this bill is concerned with nondiplomatic, in its very title I believe, with nondiplomatic functions.

Senator SPARKMAN. I am surprised at your request for the amendment, when the bill does not cover the type of things that you present, at least not so far as I am aware.

Mr. WILSON. As it is presently drawn, the bill would affect the offices, officers, and staff members of official Government information officers and offices in this country if they did not have any diplomatic passports.

Senator SPARKMAN. Would you tell me where that appears in the bill? You have suggested an amendment, have you not?

Mr. WILSON. Yes, sir.

Senator SPARKMAN. May I have that reference?

Mr. WILSON. I wonder if I could ask Mr. Parson to answer that.

Mr. PARSON. I am David Parson, Deputy General Counsel to the Agency.

Senator SPARKMAN. Your amendment is to existing law rather than to this pending bill.

Mr. PARSON. Yes. S. 2136 does amend the existing statute, and the Foreign Agents Registration Act requires the registration of everyone, included under the act, with certain exemptions. The one exemption is now present in section 3(a). This exempts two classes of people, specifically diplomats and consuls. We would propose a further exemption which would carry out some of the existing pattern of exemption that Mr. Katzenbach referred to, for example, an exemption for a diplomatic information office under the roof of an embassy. But we would make this officially so by writing it into the act as an exemption.

DIPLOMATIC IMMUNITY FOR INFORMATION OFFICERS

Senator SPARKMAN. I see. The act provides an exemption for diplomatic or consular officers.

Mr. PARSON. That is right.

Senator SPARKMAN. The things you have pointed out have been diplomatic functions although they may have been performed by someone who did not fall in either category, diplomatic or consular, is that correct?

Mr. PARSON. Precisely, Senator.

Senator HUMPHREY. In other words, he wishes to deny the lawyers the opportunity for rigid interpretation, and he is right.

The CHAIRMAN. Under the present law the Department of State now exempts information officers by granting them diplomatic immunity, does it not?

Mr. WILSON. Well, there are a limited number of information officers who are granted diplomatic immunity. It is rather limited, usually the highest ranking ones, and they do have staffs and officers under them who are nationals of the country represented who are working legitimately for their country, but they do not have diplomatic immunity; they have official passports.

The CHAIRMAN. I agree with your basic idea about people whom you have just described, that is, diplomatic officers, and so on, who carry on legitimate activities.

EMPLOYMENT OF PUBLIC RELATIONS FIRM BY INFORMATION OFFICE

The problem that bothers us a bit is, in view of your objection to what happens if an information office employs a public relations firm to do certain things for them, that they do not have to report their activities.

Senator SPARKMAN. Mr. Wilson did say that it would only apply to non-Americans.

Mr. WILSON. Yes, sir; that is why we put that in there specifically.

Senator SPARKMAN. If they employed an American public relations firm, that firm would not be exempt under his wording.

Mr. WILSON. We have attempted with these four provisions, Mr. Chairman, that I mentioned on page 3 of my statement, to try to close that kind of a loophole exactly.

The CHAIRMAN. Take the case Senator Sparkman mentioned. They employed a public relations firm in New York and registered, but all they list is their activities, which is just the blanket registration—"We are employed by the information office of country X," and that is all. Would they have to report fully everything they do?

Mr. WILSON. They would; yes.

The CHAIRMAN. How could they report?

Mr. WILSON. If the information office put out the material they had prepared, that material would have to be sent to the State Department. It would also have to—it would, therefore, come under scrutiny.

The CHAIRMAN. If the information office provided trips for newsmen to their country, would that be reported to the State Department?

Mr. PARSON. If I may suggest, there would be absolutely no change as regards these public relations offices. I would say no change in the

sense that they would be required to register and to present a full statement of activities. This would continue.

The only exemption would be for the offices, which are the official Government information offices, either under the Embassy roof or more likely in New York.

OBJECTION TO USIA REPORTING TO JUSTICE DEPARTMENT

The CHAIRMAN. Do I also understand that even the information officer would report, for example, if he financed free trips to the State Department? This you do not object to. It is just having to report it to the Department of Justice which you object to. Is that correct?

Mr. WILSON. If the information office was making the reporting; yes, sir; it would go to the State Department.

The CHAIRMAN. It would be a public document, would it not?

Mr. WILSON. Yes, sir.

The CHAIRMAN. But to the State Department.

Mr. WILSON. Yes, sir; but through the State Department, through the diplomatic channel, which was the Embassy.

The CHAIRMAN. The crux of it is you do not object to the reporting, but simply the agency to which one reports, is that it?

Mr. WILSON. Yes, sir; that is the key concern we have.

The CHAIRMAN. You suggest, if I understand correctly, that you do this administratively. Do you have an objection to this being part of the law just as you have stated it, that the report be made to the State Department?

Mr. WILSON. No, we have no objection to that.

NO OBJECTION TO REPORTING TO STATE

The CHAIRMAN. I do not think that we are very far apart in our thinking. I did not exactly understand your position. You would have no objection to the report requiring the details of their activities in this field being made to the State Department?

Mr. WILSON. No objection whatsoever.

The CHAIRMAN. You would not mind this being included as an amendment to the law?

Mr. WILSON. No, that would be quite all right with us.

The CHAIRMAN. Do you mean the same information as is now required of other agents who report to Justice?

Mr. WILSON. Yes.

The CHAIRMAN. This, of course, would be a public document. I do not know that we are in disagreement. I personally at the moment can see no objection to this. I thought there was perhaps more to it.

Mr. WILSON. I should add what we are concerned with is that the offices themselves, the officers and the staff members of official information activities, would come under this new procedure, and not be required to go through Justice.

The CHAIRMAN. Yes, I understand it. It would be to the State Department.

Mr. WILSON. Right.

Senator SPARKMAN. I think we certainly would all agree with the objectives they have presented.

The CHAIRMAN. Do you have any other suggestions about this bill?

Mr. WILSON. No, sir.

The CHAIRMAN. I think the criteria you outline in the latter part of your statement seems to me to be quite adequate as to what should be the diplomatic functions and what should be considered prohibited. Do you have any questions Senator Humphrey.

DIPLOMATIC IMMUNITY SOUGHT FOR FOREIGN INFORMATION OFFICERS

Senator HUMPHREY. I just want to get this straight, because there seems to be a bit of ambivalence and indefiniteness present. As I understand the testimony, and I have hurriedly looked over the testimony of Mr. Wilson, you point out that the present act, Foreign Agents Registration Act, now exempts from registration, in section 3(a), a duly accredited diplomatic and consular officer of a foreign government who is so recognized by the Department of State while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer. Now, the principle of exemption you now ask is to be extended to official government information offices, officers, and staff members in the United States who are non-Americans.

Mr. WILSON. Yes, sir.

Senator HUMPHREY. Is that correct?

Mr. WILSON. That is correct.

Senator HUMPHREY. Presently this is being done administratively. Isn't the present situation that official information officers in the embassy of country A, country B, and country C do not have to register as a foreign agent?

Mr. WILSON. That only applies to those under the embassy roofs. Those who work in information offices, for example in New York City, do have to.

Senator HUMPHREY. I see. So, what you are really saying is there is a new category of diplomacy today; namely, the information category, and it has taken on increased importance for every country, and you want to include in what has been the traditional concept or definition of a diplomatic officer, the information officer; is that correct?

Mr. WILSON. Yes, sir.

Senator HUMPHREY. I do not blame you for wanting to get that clarified because I have a feeling like with the law itself, that the very conservative definitions of diplomatic officers go back to Machiavelli and did not get much beyond Napoleon and, therefore, you would like to get it up to the 20th century as to what we mean by diplomatic activity; is that correct?

Mr. WILSON. That is correct.

Senator HUMPHREY. Particularly as it relates to information officers.

Mr. WILSON. That is correct.

Senator HUMPHREY. So you want an information officer who is a duly accredited information officer to another government to have the same privileges and immunities insofar as the Foreign Agents Registration Act is concerned as a consular officer and as a normal diplomat; is that correct?

Mr. WILSON. That is exactly right.

EXAMPLE OF NEWLY INDEPENDENT STATE CONTRACTING A FIRM

Senator HUMPHREY. Our Government has initiated what we call the contract theory of government. We contract out almost everything nowadays. We are going to get to the point where we just will not really need any government at all. We will just have a contracting officer. The Atomic Energy Commission contracts out atomic energy work; the Foreign Relations Committee contracts out studies; the AID administration is now going to contract out a lot of its work. We are really just going to have a group, a limited group, of elite running around here who are proficient in contracting if we do not watch out.

There is some good and some bad in this concept or at least some doubtful features. But let us say we are talking now about country A. It does not want to have a large number of information officers in the United States, but it has developed an expertise in contracting, and it has an information officer who is not only a good information officer but he is an expert in contracting, so he comes to the United States and says, "Why bring all these nationals, these foreign nationals over to the United States and have them learn about this American culture. It may destroy their sense of values or something. Why not leave them home where they are happy. We will send one miserable person over here as an information officer and then we will let him contract."

I am using the most unbelievable set of circumstances that could easily happen. But an information officer comes over here and contracts with a large American public relations firm. He contracts with an American public relations firm to represent country A in the United States. Does the firm that makes the contract with the official information officer of country A take on the prerogatives, the cloak, the majesty of the sovereign foreign power?

Mr. WILSON. No, sir; absolutely not.

Senator HUMPHREY. He still remains an American national and is subject to all the prohibitions, limitations, and rules of our country.

Mr. WILSON. Subject to Foreign Agents Registration, that is correct. correct.

Senator HUMPHREY. He does not have diplomatic immunity.

Mr. WILSON. No, sir.

Senator HUMPHREY. Then all of his public relations materials that are done in the name of country A, and the information officer of country A, that person would be subject to the Foreign Agents Registration Act?

Mr. WILSON. That is correct.

REGISTRATION WOULD DEPEND ON MATERIAL DISTRIBUTED

Senator HUMPHREY. I want you to think about this very carefully because that means that he would have to register with the Justice Department, the contracting firm. He would have to register with the Justice Department. Would the material that he produces and his activities be registered with the State Department as well?

Mr. WILSON. It would depend on how the material was distributed. If it were distributed by the public relations firm then it would be a Justice Department matter.

Senator HUMPHREY. In other words, if he developed the material, and the imprint of the information officer, as well as the government of country A, was on said material, then the material would flow to the State Department.

Mr. WILSON. To the State Department which, in turn, would pass it on to Justice where there would be one file.

Senator HUMPHREY. I think this is very important to clarify because, frankly, I would imagine that a good deal of this information work will be done this way particularly by what we call the newer nations and the countries that do not have a highly developed diplomatic corps as yet. It would seem wise that they would want to do that, and it would seem to be very prudent and frugal.

So you might have one information officer, let us say, from an African state—let us take a new country—where they did not want to have a large group of nationals in the United States because of problems that might be encountered, it would be possible for said information officer to contract out the information activities of country A, and as long as those information activties were issued in the name of, and with the official seals or officials insignia of, country A, those printed materials would be registered with the State Department.

Mr. WILSON. That is correct.

REGISTRATION OF TRIPS AND PARTIES

Senator HUMPHREY. However, if trips were involved, for example, or parties for lobbying activities, et cetera, how would those be registered? Let us say this public relations firm decided that the image of country A was poor on the west coast. All the influential reporters on the west coast are invited to take a trip to country A and enjoy the pleasantries of life. How do you register that, with whom, and who has the responsibility for officially checking into it?

Mr. WILSON. Well, if it were organized by the public relations firm it would be registered with the Justice Department. If it were organized by the host government and under the auspices of the host government, it would be reported to the State Department. If it was done under the imprint of the host government.

REGISTRATION WITH BOTH STATE AND JUSTICE

Senator HUMPHREY. I am for your amendment. I think this is a very constructive proposal, but I would think it might be well so that you do not get in trouble on this, that while the information would be registered with the State Department that there would be some cross indexing here with Justice, because when you get an American firm involved, unless you have a cadre of police officers, you are going to have to enforce it. You cannot just enforce it through gathering the material in the files of the State Department for busy people.

Mr. WILSON. Well, the material will flow to the Justice Department from the State Department. We would not set up a separate machinery of examination in the State Department, although it is quite possible the State Department might, upon a case that would be be, we might consider, detrimental to our interest, and we could call that to the attention of the Justice Department. The central repository of all this information would be in the Justice Department.

INCREASED CONTRACTING BY FOREIGN GOVERNMENTS FORESEEN

Senator HUMPHREY. I have a feeling we will have more contracts. This is just looking into the future. You cannot train information officers in a hurry, and you do have public relations firms that are very adept at public relations activities. You are, therefore, going to find more and more of this contract type of operation, and if the contracting party, the one who receives the contract, is to be treated as if he were a part of a government, part of the government of country A, that is one thing. But if he is to be treated, if he happens to be an American national or an American public relations firm, you will have some problems.

Mr. WILSON. I might say we have a further protection in here in that we would require the information officer from country A to report the contract of any goods and services so there would be another check that way.

Senator HUMPHREY. What if a country, for example, would hire a Belgian—I am thinking of Katanga. They had an agent working in this country. How do you operate under that? Under your amendment as long as he is a non-American he does not have to report to Justice. He just reports to you busy people over in the State Department where you do not have the investigator's mentality.

You know the departments all develop a sort of an atmosphere in which they live. In one department they are probusiness, or prolabor, or proagriculture. Over in Justice one is prodetective, and at the State Department you are proforeign relations. You are trying to make everybody happy all around the world, you see.

USIA AMENDMENT PUT DIPLOMATIC CLOAK ON INFORMATION OFFICERS?

How does your amendment apply to an African country that contracts its public relation activities in the United States to a Belgian national like Mr. Streulens? Does Mr. Streulens just wander around here, footloose and fancy free, saying, "I represent a foreign country, you can't touch me, and I can abuse your Members of Congress or your Government or anything else"?

Mr. WILSON. It is true under our amendment that a foreign national could be hired by another country. But the case you just cite we do not think would be really possible because he would be under the control of the Ambassador and the Embassy.

Senator HUMPHREY. He would.

Mr. WILSON. Well, he would if he were hired as a regular staff member and, therefore, the Ambassador and the Embassy would be accountable to us if his activities—would be accountable to the Department of State.

Senator HUMPHREY. So if his activities were obnoxious or did not meet the kind of conduct you outlined in your statement he could be declared *persona non grata.*

Mr. WILSON. That is correct; he would be official.

Senator HUMPHREY. He would be official.

Mr. WILSON. Even if he were a Belgian working for the Congo, for instance, he would be an official working for them.

Senator HUMPHREY. I think that is an improvement, because the present situation is that he is operating as a private individual and enjoying all of the privileges and immunities of a private individual without the responsibilities of official representation.

Mr. WILSON. That is correct.

Senator HUMPHREY. That is the present situation. But your amendment would make it so he would come under the discipline of the normal diplomatic rules of conduct as you have outlined in your statement.

Mr. WILSON. Precisely.

CASE OF THE DOMINICAN REPUBLIC

Senator HUMPHREY. What about a country such as the Dominican Republic with which we have no official relations at the present time? What about their information office?

Mr. WILSON. You mean as long as we have no official relations?

Senator HUMPHREY. Yes.

Mr. WILSON. I would think any activities on behalf of the Dominican Republic would come under the Foreign Agents Registration Act and the amendment of Senator Fulbright. They would not be involved in this because we do not have an official relationship with them.

Senator HUMPHREY. At the present time, am I correct, we have withdrawn our Ambassador. Have we broken diplomatic relations?

Mr. WILSON. We have not actually. We have withdrawn our Ambassador.

Senator HUMPHREY. We have not broken diplomatic relations.

Mr. WILSON. I take it back. We actually have not broken diplomatic relations.

Senator HUMPHREY. So the information officer of the Dominican Embassy staff would still, under your amendment, be subject to the conditions that you have outlined?

Mr. WILSON. Yes, sir; I believe he would.

GENERAL SUPPORT OF AMENDMENT

Senator HUMPHREY. I did not mean to take this much time with that amendment. I think it is very worth while, and I think it is an innovation. It is something I think that is long overdue, in order to give proper recognition to information services. I think we ought to think about it a great deal. I frankly find your amendment very constructive.

Mr. WILSON. Thank you, Senator.

The CHAIRMAN. Is that all?

Senator HUMPHREY. Yes. I wanted to get that point clarified.

The CHAIRMAN. Thank you, very much, Mr. Wilson.

Mr. WILSON. Thank you, Mr. Chairman.

The CHAIRMAN. The committee is adjourned until tomorow morning at 10 o'clock.

(Whereupon, at 12 noon, the committee was recessed, to reconvene at 10 a.m., on Wednesday, November 20, 1963.)

FOREIGN AGENTS REGISTRATION ACT AMENDMENTS

WEDNESDAY, NOVEMBER 20, 1963

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington D.C.

The committee met, pursuant to recess, at 10 a.m., in room 4221, New Senate Office Building, Senator J. W. Fulbright (chairman) presiding.

Present: Senators Fulbright, Sparkman, Symington, and Aiken.

The CHAIRMAN. The committee will come to order.

This morning we continue the series of hearings before the Senate Committee on Foreign Relations in its study of the activities of non-diplomatic agents of foreign principals. We have before us S. 2136 introduced by Senator Hickenlooper and myself which amends the Foreign Agents Registration Act of 1938, as amended.

We are very pleased indeed to begin this morning with Mr. Arthur Dean, a distinguished attorney from New York City.

Mr. Dean, will you come forward, please sir. You are getting to be a regular visitor to this committee, are you not?

Mr. DEAN. Yes, I am, Senator; thank you very much.

The CHAIRMAN. We need the helpful advice of witnesses from the professions.

You may proceed, sir. You have a written statement, I believe?

Mr. DEAN. Yes.

STATEMENT OF ARTHUR H. DEAN, SENIOR PARTNER, SULLIVAN & CROMWELL

My name is Arthur H. Dean. I am a senior partner in the law firm of Sullivan & Cromwell in New York City. I very much appreciate this opportunity to testify with regard to S. 2136, which would amend the Foreign Agents Registration Act of 1938.

At the outset, Mr. Chairman, let me acknowledge that I am not familiar in detail with all the cases that the committee has been considering. I have read newspaper accounts from time to time of summaries of some of the testimony which has been given, and, I am generally familiar and sympathetic with the objective of clarifying the application of the present statute so that neither the Congress nor the public will be misled or deceived by activities which are not what they seem on the surface to be.

CLARIFICATION OF TERM "FOREIGN PRINCIPAL"

This morning, I particularly want to call the attention of the committee to the fact that these proposed amendments might, I think,

unintentionally, extend the registration requirements and attendant restrictions and penalties of the act to a large number of business firms and financial institutions in this country, as well as their bona fide legal, public relations, accounting and other independent advisers and assistants, who form a necessary and useful part of the modern business community.

I want to emphasize that the business firms and consultants that I have in mind might be covered by the act, as proposed to be amended, even though all are engaged in carrying on straightforward commercial and financial operations, having no relationship to the kind of activities which have been under review in your recent hearings.

I believe it is vitally important that any attempt to introduce clarity in the present act, and to encourage aggressive enforcement in appropriate cases, should not have the side effect of treating many legitimate commercial and financial firms as "foreign principals" or "foreign agents" within the concept of the act. Nor should such a statute require their employees, lawyers, public relations, and other advisers and representatives to be branded as foreign agents, having to comply with the strict and properly onerous requirements imposed on such true foreign agents. Indeed, the very process of branding such a large group as "foreign agents" would tend to defeat the purpose of the act by rendering registration largely meaningless without a review of the specific circumstances requiring each registration.

LAW FIRM HAS OVERSEA CLIENTS

My law firm, Sullivan & Cromwell, represents a number of American corporations doing business overseas. Frequently, they conduct their foreign operations through subsidiaries or affiliates organized abroad under the laws of a foreign country, which may be required under the applicable foreign law. We also serve as counsel to commercial firms whose parent corporations are organized abroad, and who engage in trade and commerce with and in the United States usually through subsidiaries or affiliates organized in this country.

Under a strict interpretation of the terms of S. 2136, law firms such as ours might frequently have to puzzle whether or not to register as a "foreign agent."

And the same problem would be faced by other consultants and representatives, as well as many employees of these corporations even though all are engaged in carrying out perfectly routine commercial, financial, and related activities.

I doubt that this broad result was the intent of the drafters of the proposed amendments. I feel certain that they did not intend to place such a burden on normal international business firms or transactions. But I doubt that any law firm with an international practice or any corporation engaged in international commerce can fail to recognize and be disturbed by this possible interpretation of a penal statute if they focus on the precise details of the pending bill. I have in mind particularly the proposed definitions of the terms "political activities" and "political consultant" (set forth in sec. 1(5) of S. 2136, starting at line 22 on p. 3 and line 7 on p. 4).

These sweeping definitions are particularly troublesome when read in conjunction with the definition of the term "agent of a foreign principal" (set forth in sec. 1(2) of S. 3236, starting at line 11 on

p. 2) and the limitation of the so-called commercial exemption in section 3(d) of the act to "private and nonpolitical" activities.

The situation can be corrected, I believe, without undue difficulty; but it is highly important that, in order to accomplish the committee's purposes, with which I am sympathetic, steps should be taken to avoid placing needless burdens on people who should not be required to register.

AMERICAN FIRM WITH FOREIGN SUBSIDIARY

Let me give you a few concrete illustrations of the kind of problem posed by the pending bill:

1. Take the case of an American corporation with a wholly owned subsidiary incorporated under the law of some foreign country. The foreign subsidiary asks its parent to give certain information to the U.S. Government, either the Congress or the executive branch. Perhaps the information pertains to a proposed change in customs regulations or to a proposed tax that would affect the commercial position of the oversea subsidiary.

S. 2136 clearly makes the wholly owned subsidiary of the American corporation a "foreign principal" (see clause (3) of the definition of "foreign principal," starting at line 6 on p. 2). Under certain circumstances, the definition of "agent of a foreign principal" (starting at line 11 on p. 2) would appear to make the U.S. parent an agent of its foreign subsidiary. For example, it is quite possible that any employee of the parent, or any law firm, public relations counsel, or other person, who spoke to Government officials on behalf of the foreign subsidiary of the American parent might have to register and comply with the burdensome requirements imposed on foreign agents. Indeed, under a strict interpretation of the bill (particularly the definition of "political consultant," starting at line 7 on p. 4), it is conceivable that those in this country who merely give factual information and advice to the foreign subsidiary "pertaining to the foreign or domestic policies of the United States" might have to register as a foreign agent.

The CHAIRMAN. You mean they might even if they made no effort to influence the policy of the Government and the Congress?

Mr. DEAN. Yes, Senator Fulbright. Under the definitions, if any foreign subsidiary of an American parent were to ask for advice with respect to American laws or how they can comply with American laws and we furnish such advice, I believe we would have to register under S. 2136. I come later to your definition in the bill which concerns doing anything attempting to persuade anybody. I believe if we were to act in the preparation of a registration statement for a foreign corporation, and all we did was to assure compliance with the rules and regulations of the Securities and Exchange Commission, that the circulation of the prospectus, which is trying to persuade somebody to buy the securities, might mean we would have to register as a foreign agent, although all we would be doing would be rendering purely legal advice.

There are scores, perhaps hundreds, of bona fide American industrial, commercial, and financial enterprises with foreign subsidiaries. They have added immeasurably to the economic health and security of the United States, and contribute mightily to help solve the balance-of-payments question of the United States. To require that the

U.S. parent corporations, in dealing with the interest of their foreign subsidiaries (which in substance are the same as the interests of the U.S. parent), should have to register and identify themselves as foreign agents seems to me to be unnecessary and harmful to our best commercial interests.

INTERNATIONAL FIRM WITH FOREIGN INCORPORATED PARENT

2. Another example of what I would consider to be an unfortunate and unwise registration possibility under S. 2136 involves the case of a private international commercial or financial organization, having a parent company which happens to be incorporated abroad, but which has substantial commercial operations in this country.

It may have an American subsidiary, for example, which maintains manufacturing and research facilities, as well as sales or service offices in this country. The subsidiary may be a substantial employer in this country. In short, the U.S. subsidiary would have precisely the same interest in domestic policies, labor, taxes, production and marketing, et cetera, as other American companies operating here.

Several foreign corporations of this type, with which I am familiar, have their securities listed on U.S. stock exchanges in the United States and are widely owned by Americans. Indeed, more of the stock of the parent company may be owned by Americans than by nationals of the country in which it is incorporated or of all other countries put together. (Of course, it may be difficult at any one time for a corporation to ascertain the precise beneficial ownership, as distinct from record ownership on its books.)

Under the proposed bill, the foreign parent company would be considered a "foreign principal" (see clause (3) starting on line 6, p. 2), and the U.S. subsidiary and its employees (along with any legal, public relations, or other consultants and advisers it may employ) would, under certain circumstances, appear to be considered as "foreign agents" (see the definition, starting at line 11, p. 2).

It is true, of course, that the subsidiary (as well as its employees and representatives) would be considered to be acting as "foreign agents" only insofar as they are acting "for or in the interests of" the parent (see clauses (i) through (iv) of the definition, starting at line 21, p. 2).

But in a parent-subsidiary relationship the risk is that any activity on behalf of the subsidiary, even though it is very much a going and active American concern, can be considered to be "for or in the interests of" its foreign parent. This is becoming increasingly important because of the requirement of the laws of a large number of foreign countries that companies operating mines or public utilities in those countries be incorporated under the laws of those countries.

POLITICAL ACTIVITIES DEFINED

Even though the parent's as well as the subsidary's interests in this country are, in fact, purely commercial, and there is in no sense any control by or representation of a foreign government or political party, I believe that under the sweeping new definition of "political activities" added by S. 2136 (see line 22, p. 3) the U.S. subsidiary might be unable to make representations to our Government or its officials without registering as a foreign agent.

For example, the U.S. subsidiary's plant managers might, under a strict interpretation, be regarded as having to register as foreign agents before they could speak to their own Congressmen about issues affecting their plant communities—labor relations, marketing legislation, et cetera. This is because of the introduction of the words "domestic policy" in S. 2136 in the definition of "political activity."

Since any activity intended to persuade or influence any other person with reference to the domestic policies of the United States is a "political activity" within the proposed definition in S. 2136 (starting at line 22, p. 3), presumably the commercial exemption in section 3(d) of the act (which is limited, among other things, to "nonpolitical" activities) would not be available.

Thus a law firm might have to register as a foreign agent simply to represent the U.S. subsidiary before any agency or official of the U.S. Government, even though the matter involved is purely domestic; for example, the application of the U.S. income tax laws to the subsidiary's business activities in the United States, and even though the question was purely a matter of rendering a legal opinion.

To me, it seems that ordinary commercial operations of this type by purely commercial firms which have such substantial and bona fide American interests should not be covered by the provisions of the act. I believe it is quite contrary to the basic spirit and intent of the foreign agents registration procedure. I believe the committee would not want to include persons of the type I have been describing in the "foreign agents" registration requirement. I think, in the larger aspect, that if you require many people to register under the act who are not really engaged in the type of activities the committee wishes to regulate, your proposed amendments might be self-defeating; because if you have thousands of people registering who would always have to describe themselves as foreign agents, it might become meaningless. But without further clarification, I am afraid that they may inadvertently be encompassed in the registration provisions by S. 2136.

CLARIFICATION OF TERM "POLITICAL CONSULTANT"

3. Thus far, I have been discussing the difficulty which the pending bill might impose on numerous corporations, and on lawyers, public relations consultants, and others who serve these firms in their bona fide, ordinary, commercial activities, and the burden which all such registrations would place on the Department of Justice. Now I should like to turn briefly to a feature of the bill which, perhaps, most directly affects lawyers and law firms, such as my own.

The proposed bill would include as a foreign agent any person who serves as a political consultant to a foreign principal. (See clause (ii) starting on line 24, p. 2.) The term "political consultant" is defined as any person, including a lawyer, who merely informs or advises any person with respect to any matter pertaining, among other things, to the domestic policies of the United States. (See subsection (p), starting on line 7, p. 4.)

All Federal statutes and rules and regulations of administrative agencies thereunder would seem to me to be manifestations of the policies of the United States—for these are certainly the principal ways in which at least the internal policies of our Nation are given expression by the Congress or by the regulatory agencies set up by the

Congress. Thus merely rendering legal advice to a foreign client concerning almost any aspect of U.S. law might require a lawyer to register as an agent of a foreign principal, unless his activity can be said to come within the so-called commercial exemption spelled out in section 3(d) of the act, and this has been made somewhat cloudy by the amendment to the act put through in 1961.

(The following was subsequently inserted by Mr. Dean as a rider to his statement:)

The 1961 amendment changed the phrase "financial, mercantile, or other activities" appearing in section 3(d) to "financial or mercantile activities." The legislative history of this amendment includes a letter of the Department of Justice stating that the words "or other activities" are "without effective purpose, and should be deleted," which suggests that no change in the scope of the exemption was intended by dropping the words "or other." However, the express addition now of public relations activities to the language of the section 3(d) exemption would indicate that the earlier interpretation was not correct, for if it were there would be no need for the express addition. Thus S. 2136 would make the applicability of section 3(d) to the lawyer's activities (as well as the legitimate activities of many others) even more uncertain by changing the phrase to "financial, mercantile, or public relations activities." (See sec. 3 at line 16, p. 7.) But even assuming that section 3(d) would cover legal activities notwithstanding the reference only to "financial, mercantile, or public relations activities," it might not cover the following situations.

ADVICE SOUGHT ON U.S. LAWS

If the foreign client is an individual, just a pure individual, not engaged in trade or commerce and seeking advice on personal matters—for example, a construction of U.S. immigration and naturalization laws on how he could become a citizen—to my mind a serious question exists as to the availability of the commercial exemption under section 3(d) of the act. An American lawyer advising such an individual not engaged in commerce might well be required to register as an agent under the act before he could give any legal advice to his foreign individual noncommercial client.

Also, law firms are frequently approached by foreign governments seeking legal advice with regard to U.S. laws—a very common question, for example, is the application of the U.S. securities laws and stock exchange laws and the "blue sky" laws of the several States, with regard to offerings in the United States of securities issues by a foreign government or its agencies or instrumentalities. Again, because of the nature of the governmental client who is not engaged in commerce, a serious question arises with respect to such inquiries by a foreign government, as to whether the commercial exemption is available in such cases, and whether the law firm might be obligated to register under the act before rendering the requested legal advice as to the proper interpretation of a domestic law or a rule or regulation of a U.S. administrative body.

SHOULD RENDERING OF LEGAL ADVICE NEED REGISTRATION?

I doubt that the committee intends that the mere rendering of legal advice to a client in situations such as these should be adequate cause for requiring registration as a foreign agent and compliance with all of the burdensome requirements such as a registration under S. 2136 entails.

I should like to acknowledge, Mr. Chairman, that some of the problems I have been discussing might arise if there were a strict and literal interpretation of the present statute, as well as under the proposed bill. It is my understanding, however, from oral conversations with the Department of Justice, that under the present act if lawyers, for example, confine themselves entirely to rendering legal advice they do not have to register. In my opinion, however, many of these problems would be aggravated by S. 2136, particularly the new definition of "political consultant" and the incorporation of "domestic policies" in the definition of "political activities" (see p. 4, line 7; p. 3, line 22), and the fact that these problems have existed for many years does not justify continuing the confusion into the future.

I further believe, Mr. Chairman, that the specificity that has been put into the definitions may make it very difficult for the Department of Justice to draw up regulations with respect to exemptions, because the Supreme Court has held that the agency chosen by the Congress to grant such exemptions cannot grant exemptions in areas covered by the specific provisions of the statute itself.

One of the primary purposes of the bill, as you, Senator Fulbright, pointed out in your remarks on the Senate floor on September 10 of this year, is to clarify and add certainty to the statute. You also indicated at that time that another purpose of the proposed bill, as well as the series of hearings which have been conducted, is to enable and encourage the Justice Department to tighten its enforcement activities.

UNNECESSARY REGISTRATIONS MIGHT BE BURDENSOME

From the examples I have given, I think it is clear that literally scores of major American corporations, and many of their employees and consultants, might be required to register as foreign agents under S. 2136. Not only would this be burdensome to the companies and the citizens involved, but an avalanche of registrations of this sort would swamp the Justice Department and prevent it from properly enforcing the law with regard to the kinds of persons whom the committee feels should be made to comply. Further, you might not get the detail in these registration statements that would be necessary in order to fulfill what the committee wants to accomplish. Subject to correction, I believe that a large number of the activities that were carried out in connection with the proposed sugar legislation—which naturally aroused the committee—were by people who had already registered under the Foreign Agents Registration Act, but perhaps their registration statements were not enough.

In short, such a mass of registrations would not serve the basic purposes of the statute.

I mentioned earlier that I felt the difficulties with the proposed legislation could be met through changes in S. 2136. I believe there are a number of ways in which this could be accomplished. I would like to file with the committee an appendix to my statement which I shall submit for the record, and my firm and I myself will be happy to work with your staff in developing or considering further approaches, should this be desired by the committee.

CLARIFICATION OF GUIDELINES FOR ENFORCEMENT

But regardless of the specific language of any amendments to the bill, I think the Congress should take steps to give the Justice Department some guidelines as to the enforcement of the legislation. It is clear from your earlier hearings that the committee feels the Department has not been sufficiently strict in enforcing the act in the past; but it is equally clear that the Department could inflict even greater harm by interpreting the legislation too literally and too harshly.

However, under the cases in the Supreme Court as to the proper meaning of language in a statute, I doubt very much that statements made on the floor of the Congress or here in the committee will necessarily be very helpful to the Department of Justice if you do not put amendments into the bill itself so that the legislation is also clear and precise.

Accordingly, I believe your committee should utilize these hearings, as well as its report on the bill and the floor debate on the legislation, in conjunction with amendments to the act itself, to spell out the kinds of activities and business enterprises that it does not mean to cover by the registration requirements as well as those that it does mean to cover.

If the bill is passed without such clarification by the Congress, I believe it could result in widespread burdens to thousands of citizens, and will fail to accomplish the purposes which I believe are intended by the committee.

If many people the committee does not intend to cover are required to register under the Foreign Agents Registration Act and state each time they meet a Government official, "I am a foreign agent," I am afraid the bill will not serve its purpose.

I want to thank the committee once again for granting me this opportunity to appear today. I am convinced that by correcting the pending bill in the areas I have indicated, the committee will strengthen the effectiveness of the Foreign Agents Registration Act by restricting its application to those to whom it should apply and avoiding needless burdens on other citizens.

As I said before, I would like to submit this appendix to my statement in which I suggest certain specific changes in the bill which, I think, would meet most of the points that I have outlined. Thank you very much.

(The appendix referred to in Mr. Dean's statement follows:)

APPENDIX TO STATEMENT OF ARTHUR H. DEAN

SUGGESTED CHANGES IN S. 2136, TO AMEND THE FOREIGN AGENTS REGISTRATION ACT OF 1938

I. Revise section 1(1) of S. 2136 (which sets forth the definition of the term "foreign principal") by changing the period at the end thereof (line 9, p. 2) to a semicolon, and adding thereafter the following:

"*Provided, however*, That the term 'foreign principal' does not include any bona fide business corporation or other similar association or organization if (i) such person—

"(a) is engaged in bona fide trade or commerce with or in the United States and directly or indirectly owns or controls; or

"(b) is directly or indirectly owned or controlled by

one or more corporations organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United

States, having its or their principal places of business within the United States, and regularly engaged in substantial bona fide commercial, industrial or financial activities within the United States; and (ii) no substantial portion of the activities either of such person or of such corporation or corporations are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a government of a foreign country or a foreign political party."

II. Revise the definition of "political consultant" set forth in section 1(5) of S. 2136 by adding at the end thereof the following:

"*Provided, however,* That the term 'political consultant' shall not include any person engaged in the practice of law solely by reason of rendering legal advice to a client of such person."

The CHAIRMAN. Well, thank you very much, Mr. Dean.

DETERMINATION OF INTEREST BEING REPRESENTED

Of course, the purpose of these hearings is to solicit exactly the kind of information you have volunteered, and I know the staff will welcome assistance and any suggestions you have.

We do not minimize the fact that this is a very difficult area. The distinctions to be drawn are very difficult, and we do not intend to burden the representation, certainly, of domestic interests. The difficulty, in the case of these foreign subsidiaries of domestic corporations, is in determining what interest is actually being represented, that is, of the domestic or of the foreign principal, and that exists under present law. Much of what you say, I think, could be used as a criticism of the present law, isn't that correct?

Mr. DEAN. Yes; if it were strictly enforced. There were some words in the exemption provision that were taken out in 1961. I think it read "financial, mercantile, or other activities," and those words were helpful. Well, we took up many of these matters with the Department of Justice and, as I said earlier, the Department felt that if you were strictly within a plain ordinary commercial transaction or strictly within just giving legal advice as to what statutes meant and you were not trying to lobby or promote anything or to persuade somebody to do something.

The CHAIRMAN. Don't you think that would still be the interpretation of this language? There is quite a difference in your giving advice, for example, to your foreign principal, and going to a Congressman or appearing before a committee and trying to persuade the enactment of legislation especially useful for your client. The Sugar Act is a good illustration. Don't you think there is quite a difference?

DEFINITION OR TERM "POLITICAL CONSULTANT"

Mr. DEAN. Well, look at your definition in (p) on page 4.

The term "political consultant" means any person, including, without limitation, any economic, legal or other consultant, who engages in informing or advising any person with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a foreign political party or pertaining to the foreign or domestic policies of the United States.

The words "legal" and "domestic" are new to the act.

If you will read that in connection with your definition of an agent, which is on page 2, subsection (2) that "except as provided in subsection (d) hereof, the term 'agent of a foreign principal' means," and then it goes down to subdivision (ii) "acts within the United States

as a public relations counsel, publicity agent, information service employee, or political consultant for or in the interests of such foreign principal."

So that if you give any legal advice with respect to domestic policies of the United States to a foreign principal you may have to register.

The CHAIRMAN. The point I was making is that in section (p) you first read on page 4 that the definition is almost, but not exactly, identical to present law.

Mr. DEAN. Well, you put in the words "domestic policies of the United States" which means if you give any advice with respect to any domestic law, rule, or regulation that you fall within the term "political consultant," if you are giving that advice to a foreign principal.

The CHAIRMAN. Of course, you know the origin of "domestic policies" was the sugar legislation.

Mr. DEAN. Yes.

The CHAIRMAN. That is the reason it was put in there.

Mr. DEAN. Yes.

JUSTICE VIEW OF DEFINITION OF "POLITICAL ACTIVITY"

The CHAIRMAN. One thing does interest me which is of a general nature. Yesterday the Deputy Attorney General stated as follows in his testimony:

> Finally, as indicated in my letter, the narrowing of the term "political activities" as contained in the proposed bill may unduly narrow the application of the statute and seriously hamper its enforcement.

He continues, saying:

> I would suggest that any definition of "political activity" should be at least as extensive as that which is now in rule 100(a)(11) promulgated by the Attorney General.

This is a very interesting difference of view. He seemed to think we made it too narrow, and you think it is too broad. But that does not mean that we should not seek a reconciliation of these two views. I think you know what we are trying to get at. It is not just the strictly legal advice as between you and your foreign principal, if you have one, but it is your attempt in his behalf to influence the actions particularly of the Congress and of the Executive.

In many of these cases the Executive is the branch where the influence is brought to bear. I do not minimize the difficulty of making this clear in the law. I think it is a combination of the law and the regulations which the Department itself adopts in connection with it. We were hopeful that this change, as suggested by the Attorney General's office, about injunctive relief where you are not threatened with indictments, would lead to a clarification of these matters and consequently to less friction and difficulty than we have had in the past. Don't you agree with that?

Mr. DEAN. I agree with that.

In a number of my talks that I have had with the Department of Justice over the years, the thing they have always been concerned about in the previous law was it was so broad and so vague that they did not know how to interpret it, and they rather declined to enforce the law vigorously because they felt the act itself was so broad that they did not quite know how to interpret it.

The CHAIRMAN. As the Deputy Attorney General testified yesterday, the original purpose of this law was directed primarily at subversive activities of the old Nazi Party and the Communist Party. Now business activities, such as many of our hearings were concerned with, have entirely supplanted that as a major activity covered by this law.

Mr. DEAN. I am in sympathy with what you are trying to do. I remember back in the 1930's there was somebody, I believe, who was acting as an advertising agent for a foreign railway, and in the guise of carrying on travel advertising they were carrying out a large amount of propaganda for the Nazi Party, and since they were acting as an agent of a railway they claimed that they were not acting on behalf of a foreign government.

FOREIGN INTEREST SHOULD BE CLARIFIED

I am in complete sympathy with what you are trying to accomplish. My basic points are really two. I am afraid if you include a large number of people through ordinary activities, and require them to register, then the fact that you will have several thousand people who every time they talk to a Congressman will have to say, "I am a foreign agent," I am afraid the Congressman will get bored and it will fail.

The CHAIRMAN. I think you put it more baldly. There is nothing wrong when visiting a Congressman or coming up here to testify with your saying: "One of my clients is such and such a company or such and such, and this is why I have an interest in it."

Everyone would accept this for what it is. There is nothing illegal in these representations. The Congressmen are merely being informed.

Do you think there is anything wrong if you, as a lawyer, came before the Finance Committee about a tax matter which, right now, is under consideration and said, "Well, I represent the Government of France or Italy, and we are very interested in this matter," and no one, as long as it is stated that way, would see anything wrong with it, do you?

Mr. DEAN. No. I would be delighted to say that.

The CHAIRMAN. That is all you have to say according to this legislation.

Mr. DEAN. But the trouble here, Senator—and I think you will agree—is that the people you are trying to cover are those who, without being honest about it, are attempting to deceive you as to what they are really doing.

The CHAIRMAN. That is right.

Mr. DEAN. And I hate to see people like ourselves, who have always tried to be strictly lawyers and not lobbyists, thrown in with a bunch of people who, in the public eye, at least, are not regarded very highly.

MAJOR OIL AND MINING COMPANIES WITH FOREIGN SUBSIDIARIES

The second thing is the major oil companies, as I am sure you know, have had to meet with a great deal of nationalistic fervor, and they have had to incorporate a lot of subsidiaries in foreign countries. That is true in a large number of countries.

It is also true of some of the mining companies, American mining companies, which have had to incorporate under Canadian law. Their main activity, apart from mining in Canada, is carried on in the United States; but under this proposed definition the American subsidiary would be the agent of a foreign principal, and no one, neither the president of the subsidiary nor anyone else, would be able to discuss these matters down here or to testify or go to the Treasury or the SEC or other places without saying constantly, "I am an agent of a foreign principal." I doubt whether that is what you really have in mind.

The CHAIRMAN. We certainly do not have in mind this application when you are not trying to exercise any undue influence. Your normal operations are not what we are concerned about.

POLITICAL ISSUES WHICH MIGHT REQUIRE REPRESENTATION

I wonder if you would outline a few of the political issues which you feel might require representation of U.S. corporations oversea subsidiaries by persons in this country. Do you have in mind taxes?

Mr. DEAN. No, not necessarily taxes in particular. There are hearings on the extension of oil imports, there are constant hearings whether there should be customs duties imposed on lead or zinc. There are questions about migratory labor in California. Taxes are also, of course, a very important part. Many a time, as I am sure your committee is well aware, the heads of American corporations are called in by the Department of Defense or the State Department in saying, "How can you cooperate with us in trying to carry out this policy?" and I think that it is a very important part of the duties and obligations of American business to cooperate with anyone in Government who asks them, to do it honestly and do it willingly.

But under this bill, if, let us say, the vice president of an oil company was called upon, and it had a foreign subsidiary, and this foreign subsidiary was involved, each and every time he would have to say, "I am the agent of a foreign principal." He could not even ask any information from the Library of Congress, as I read the bill, without saying, "If you give me an ordinary governmental publication, I am getting it on behalf of a foreign principal."

He cannot ask for any information about any domestic policies in the United States without indicating that he is an agent of a foreign principal. I am just afraid that in its present form the bill is going to be so inclusive that it might be self-defeating.

The CHAIRMAN. We certainly do not want to make it that.

Do you have any questions, Senator?

Senator AIKEN. No. I think Mr. Dean's testimony is generally helpful.

I am inclined to agree with you, Mr. Chairman, that this proposal of the second amendment would, perhaps, result in weakening the provisions of the existing law as defined by the Attorney General.

I would like to say, Mr. Dean, if you think that the proposed legislation is rather tough and too inclusive, you ought to see what some of them are proposing for Members of Congress. No more privacy or anything, I guess.

DOMESTIC LOBBYING ACT

The CHAIRMAN. Do you find any difficulty in complying with the domestic lobbying act if you interpret this as literally as you fear the Foreign Agents Registration Act is interpreted? Wouldn't you have the same trouble under the domestic lobbying act?

Mr. DEAN. No. The domestic lobbying act has provisions that if you call upon a person and try to influence him with respect to legislation, and that sort of thing, I have no quarrel with the provisions of the lobbying act.

As I read this, however, before we could render the simplest legal advice with respect to any law or regulation of the United States, if we did it for a foreign principal, and we did not fall within the commercial exemption, I think we would have to register before we gave that.

LINE BETWEEN GIVING ADVICE AND INFLUENCING LEGISLATION

The CHAIRMAN. Why wouldn't you fall within that exemption? I am a little puzzled about this point. If all you did was to give advice to your foreign principal, if you did not come down and appear before the Congress or seek to influence it, why do you think you would be covered by the act?

Mr. DEAN. I think under a strict reading of the act we might. The words "or other activities" which used to be in section 3(d) of the act were taken out in 1961. As I understand it, under S. 2136, your section 3(d) exemption would read:

> Any person engaging or agreeing to engage only in private and nonpolitical financial, mercantile, or public relations activities * * *.

Now, you have put the word "legal" in your definition of political consultant, and you have taken out the previous language of "or other activities" in your exemption, and it was those words on which the Department of Justice previously relied in advising us that if you gave pure legal advice and nothing more that you did not have to register.

The CHAIRMAN. I will call your attention to the words in the present act, that say:

> Any person who within the United States collects information for or reports information to a foreign principal—

You have lived with that all during these years.

Mr. DEAN. Yes. But it is the use of the words "domestic policies" in here that causes the trouble.

The CHAIRMAN. This says "information for or reports information to a foreign principal." Any kind of information, apparently, whether it is a weather report, or the state of Congress, or the prospect of who is going to be elected, and so forth, if reported falls under that existing law.

Mr. DEAN. But in the act, as it existed in 1961, until that time in section 3(d) you had this exemption "or other activities," and that has been now taken out. As I say, you put the word "legal" in your definition of a political consultant, but you took out the words "or other activities" in section 3(d). You now also propose to specifically

cover public relations, and this, in conjunction with taking those other words out, gives us considerable concern.

In your lobbying act you have to attempt to influence the passage or the defeat of legislation. If you give an opinion with respect to the tax law you are not attempting to influence the passage or defeat of legislation.

The CHAIRMAN. I think you have raised a very difficult problem, and one of the problems of enforcement in existing law has been the difficulty of interpreting some of these provisions. This is largely a matter for the lawyers to work out, I guess, as to exactly where the line is drawn.

PURPOSE OF PENDING LEGISLATION

Your suggestions certainly will be given most serious consideration. I may say for your information that we are not trying to rush this legislation through. I introduced it now in order to give you and other interested people an apportunity to study it. I do not anticipate it will be passed this year. We hope by next spring, at least, to have it underway both here and in the House. The committee may be able to report it and enable further study.

I do not think it is a matter of great urgency that it be passed immediately, as some of our legislation is, but it has never been looked into by any committee since the original act came into being and the subsequent investigation of it.

I think it is clear what we are trying to get at. The difficulty is where to draw the line between legitimate, normal representation, as you have described it, and what we really think of as undue influence upon the normal processes of the Government.

Mr. DEAN. Well, I am in sympathy with what the committee is trying to do.

The CHAIRMAN. As a lawyer, and with your experience, you can be very helpful in helping draw that line.

Mr. DEAN. I will be glad to be of any help I can.

Senator AIKEN. Mr. Chairman, if all the laws ever enacted by the Congress were clear and understandable certainly we would increase the number of unemployed lawyers, would we not?

Mr. DEAN. I think that would be devoutly to be wished for, Senator.

Senator AIKEN. So you owe your living to the fact that the laws we pass are not understandable.

Mr. DEAN. No. I would far rather earn my living in a more constructive way.

The CHAIRMAN. It would not be in the position of trying to enact the laws, I am sure.

Do you have anything further to say?

Mr. DEAN. No, I have not.

The CHAIRMAN. We will be glad to receive any further suggestions that occur to you.

Mr. DEAN. Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Dean.

Mr. Chayes, the legal adviser to the Department of State.

Mr. Chayes, we are very glad to have you this morning.

Before you proceed, I would like to insert in the record a letter received by the committee on November 18, 1963, from the Department of State in support of S. 2136.

Further, at this time I would like to offer the appreciation of the committee to Secretary Rusk and his Department and his assistants, particularly Mr. Chayes and Assistant Secretary Frederick G. Dutton for their assistance in the investigation of legislative matters arising out of the investigation.

(The letter referred to, as well as that from the Agency for International Development, follows:)

DEPARTMENT OF STATE,
Washington, November 18, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Department of State on S. 2136. This bill would amend the Foreign Agents Registration Act of 1938, as amended, in a number of significant respects.

First, it would substantially revise the definitions employed in the act (sec. 1). Second, it would provide several additional registration requirements (sec. 2). Third, it would broaden the labeling requirements and make the Department of Justice rather than the Library of Congress the recipient of copies of propaganda filed under the act (sec. 4). Fourth, it would require the Department of Justice to send to the Department of State every registration statement, supplement, amendment, and piece of political propaganda submitted by an agent of a foreign principal (sec. 6). Fifth, the penalties for violations of the act would be reduced in certain cases (sec. 8(f)). Sixth, it would empower the Attorney General to seek, and a court to grant, an injunction or restraining order in certain cases (sec. 8). Seventh, it would make unlawful contingent fee contracts between a foreign principal and his agent which are dependent upon the success of political activities (sec. 8(g)). Eighth, it would make unlawful political contributions by agents of certain foreign principals in behalf of such principals (18 U.S.C. 613). Finally, it would make unlawful the representation of a foreign principal by an employee of the U.S. Government unless the head of the employing agency certifies that such employment is required in the national interest (18 U.S.C. 219). Sections 3 and 5 of the Foreign Agents Registration Act would also be amended in minor respects.

The Department supports this bill in its entirety.

The Bureau of the Budget advises that from the standpoint of the administration's program, there is no objection to the submission of this report.

Sincerely,

FREDERICK G. DUTTON, *Assistant Secretary.*

DEPARTMENT OF STATE,
AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 26, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for giving the Agency for International Development the opportunity to comment on S. 2136, amending the Foreign Agents Registration Act of 1938.

We have studied the proposed amendments and your remarks introducing the bill. This Agency is entirely in accord with the purposes of the amendments, as you have explained them, and we have no objections at this time to the specific language of the bill.

AID will continue to follow the committee's work in this area. Of course, we will be happy to present testimony, if you desire us to do so, or to answer any questions you may wish to put to us.

The Bureau of the Budget has advised that it has no objection to the submission of this response.

Sincerely,

DAVID E. BELL.

The CHAIRMAN. Mr. Chayes, will you proceed, please, sir.

Mr. CHAYES. Thank you very much, Mr. Chairman.

I have a prepared statement. I can read it if you choose or I could submit it for the record if that is your preference, sir.

The CHAIRMAN. If you will submit it for the record and then summarize the principal points you wish to make, it would probably be more useful to us.

Mr. CHAYES. Thank you, Mr. Chairman.

STATEMENT OF ABRAM CHAYES, LEGAL ADVISER, DEPARTMENT OF STATE

First, as you have already said, we have submitted a letter on behalf of the Department in support of the bill. We do support the bill in its entirety.

STATE DEPARTMENT HAS IMPROVED ON ITS RESPONSIBILITIES

Second, I thought you, Mr. Chairman, and the committee would be interested in a number of steps we have taken within the Department since Mr. Ball testified here earlier this year, to intensify, step up, our work in relation to the existing law.

As you know, the Department of Justice is the enforcement agency but, as the committee pointed out earlier, the State Department has a responsibility to assist and draw information to the attention of the Justice Department so that it can better carry out its responsibilities.

Among the steps we have taken are the following:

First, the Department of Justice now keeps us supplied with the supplemental and amended statements as well as the original registration statement. An example of the significance of that step is that this year so far Justice has sent us more than 200 separate items, whereas last year we received only 44 separate statements when they were sending only the original registration statements. Of even more significance, so far this year we have commented on about 125 of those statements, that is, submitted some form of comment back to the Justice Department; whereas in 1962 the whole of that year, we submitted only 7 comments back to the Justice Department.

Now, the second step that we have taken is to improve the dissemination of the statements and the supplementary statements throughout the Department. It used to be that only the desk officer of a particular country got the statement for information and comment. But, of course, a foreign agent might approach the Department at various levels and not only through the desk officer of a particular country that he was representing or in which his client was located. So we now distribute these not only to the bureau covering that geographical area but also to the so-called functional bureaus, that is, the bureaus whose responsibilities run throughout the Department, the Bureau of Economic Affairs, and the Bureau of International Organization Affairs.

The third step that we have taken is to instruct officers in the Department to take the initiative in bringing to the attention of the Justice Department any activities of foreign agents that appear to us to be out of the ordinary. I think it is interesting that, as a result of these instructions, we have had since Mr. Ball's testimony in Feb-

ruary approximately 25 reports to the Justice Department emanating from our Department concerning possible violations of the act, and these reports have stimulated a number of inquiries by the Justice Department into possible violations, and in some cases, corrections of existing activity.

The final step that Mr. Ball proposed in February was that the Department would provide a period of instruction for new Foreign Service officers, concerning the act and the responsibility of the Department with respect to it. That has been done.

We now conduct seminars in the Foreign Service Institute, and on this matter representatives of my office, of the Justice Department and of the Bureau of Intelligence and Research participate.

I should say more generally that responsibility for the Department's activities with respect to the act have been centralized in the Bureau of Intelligence and Research, and we do have now a place which keeps our people on their toes, about the enforcement of the act. We have one single place that is charged with that responsibility, and it can keep the other officers active about it.

So much for a description of what we have been doing.

STATE SUPPORTS USIA AMENDMENT

There is one amendment to the act that we are supporting that, perhaps, deserves special mention. You will recall that yesterday the U.S. Information Agency proposed an amendment which, under certain restrictions and safeguards, would exempt official Government information agencies from the requirements of the act, provided they make certain information available to us, and provided we regard them as carrying on functions that are essentially characteristic of official information agencies, and thus entitled to be called in these modern times diplomatic.

We support that amendment. It has been introduced at the request of the Information Agency, and we are prepared to support it as it now is before you.

I might say, in conclusion, I was very grateful for your remarks about the cooperation of the Department. I must say we, especially my own office, have enjoyed very much working with your staff on this bill. I think it has been a constructive and helpful kind of experience in the development of legislation. Thank you, Mr. Chairman.

(The prepared statement of Mr. Chayes follows:)

STATEMENT OF ABRAM CHAYES, LEGAL ADVISER, DEPARTMENT OF STATE, ON FOREIGN AGENTS REGISTRATION ACT, S. 2136

I

Mr. Chairman and members of the committee, the Department has already written to the committee concerning its views on S. 2136. In brief, we support the bill in its entirety.

We believe that the proposals contained in this legislation will promote the original aim of the Foreign Agents Registration Act—public disclosure of the activities of agents of foreign principals. It will also provide new safeguards which have become desirable since the last major revision of the act more than 20 years ago.

II

STATE DEPARTMENT'S IMPROVEMENT OF RESPONSIBILITIES

I would like to discuss briefly what the Department of State has done to better its own practices concerning the act since Mr. Ball testified before the committee last February. At that time, Mr. Ball outlined four steps which were being taken to tighten our procedures. First, we have asked the Department of Justice to keep us currently supplied with copies of the supplemental and amendatory registration statements of each agent of a foreign principal, in addition to the initial statements of such agents.

The Justice Department has so far this year sent us more than 200 original, supplementary, and amendatory statements for review and comment. In the whole of last year, when only copies of original registration statements were reviewed, we received only 44 statements.

Of much more significance, in 1962 the Department commented on only 7 statements; this year the Department has commented on about 125 statements.

This improved record is due in part to the fact that last June responsibility for coordination of all Department activities concerning foreign agents and the act was centralized in the Bureau of Intelligence and Research. That Bureau now insures that there is adequate review of all information received by the Department concerning agents of foreign principals and that the Department of Justice is provided with reports concerning this information.

Furthermore, we have distributed throughout the Department and to our embassies and consulates, a foreign affairs manual circular concerning the Department's role with respect to the act. This circular was prepared after consultation with representatives of the Justice Department and staff members of the committee. I would like at this point to submit a copy of the circular for the record. The Department has also distributed copies of the Foreign Agents Registration Act throughout the Department and to all oversea posts.

The second step which Mr. Ball said the Department would take to tighten its practices was to improve the method of disseminating agents' statements throughout the Department. Previously the registration statement of an agent of a particular country was generally seen only by the desk officer of that county. Now, however, we circulate statements first to the geographic and then to the functional bureaus with an appropriate explanatory memorandum. Statements are widely distributed within each interested bureau. All are sent both to the Economics Bureau and the Bureau for International Organizations and to the geographic bureau which has responsibility for the country involved. For example, to date this year the Bureau for European Affairs has reviewed over 100 statements and the Bureau for Latin-American Affairs has reviewed over 40.

In many cases the commenting officers merely report that the data in the statements appears to be accurate and complete insofar as they know. Comments of Department officers indicate that, for the most part, agents of foreign principals generally approach officers of the Department for routine exchanges of information, public documents, and technical guidance. We believe, however, that the Department of Justice will find all of our officers' comments useful as background information concerning the agents and their principals.

The Department's intensified review of agents' statements indicates that the primary efforts of foreign agents to influence foreign policy are not through direct contacts with Department officers, thus confirming Mr. Ball's testimony that "we have not found that the activities of foreign agents present any serious problems for the process of policy formulation within the Department. By and large, the Department and its personnel do not constitute the major target for these activities."

The third step outlined by Mr. Ball was to instruct our officers to take the initiative in bringing to the attention of the Department of Justice any activities of foreign agents that appear to be out of the ordinary.

We have organized a major effort to record the contacts of our officers with agents of foreign principals and to provide the Department of Justice with this information. We are now screening telegrams, memorandums of conversations, and other communications for references to contact with or information about foreign agents. In several cases communications have been exchanged with oversea posts to obtain data for the Department of Justice.

Since Mr. Ball's testimony the Department has sent approximately 25 reports to the Justice Department concerning possible violations of the Foreign Agents Registration Act. As a result of these reports, we understand that the Depart-

ment of Justice has initiated a number of inquiries into the activities of individuals who did not register, apparently submitted incomplete or inaccurate information on their registration, statements, or did not properly label their political propaganda.

For example, we informed the Department of Justice that an individual was purporting to represent a government of an African country although he had not disclosed this fact to the Department of Justice in his original registration statement. The Department of Justice immediately directed him to submit new registration forms that were complete and accurate. The Department, through our embassy in the African country, brought the agent's activities to the attention of that country's government. We were later informed that the individual was notified by the government that he had no authority to act in its behalf.

The final step outlined in Mr. Ball's testimony was that the Department would provide a period of instruction for new Foreign Service officers concerning the act and the responsibilities of Department officers with respect to it. Presently the Foreign Service Institute includes a seminar period on this matter as a regular part of the course for each class of newly commissioned Foreign Service officers. Representatives from the Departments of State and Justice conduct these seminars.

III

Comments on USIA Amendment

I would also like to comment briefly on the amendment to the Foreign Agents Registration Act proposed by the U.S. Information Agency. This amendment would exempt from registration official Government information offices and their officers and staff members if they meet four requirements. First, the officers and staff members must not be U.S. citizens. Second, all material disseminated by them must be identified as to its source. Third, all such material must be sent to the Department of State. Finally, their activities must be within the normal scope of official information activities.

The Department of State supports this amendment. The U.S. Information Agency plays a vital role in implementing this country's foreign policy. USIA has informed us that its efforts may be seriously curtailed by foreign governments abroad if its amendment is not enacted. If the Agency's activities were jeopardized, it would be a major blow to the implementation of our policy abroad. Furthermore, the Department has long thought that information services should be recognized as part of the legitimate activities of foreign governments in this country. For these reasons, the Department of State believes that the USIA amendment should be adopted.

To insure adequate disclosure by the official information services of foreign governments, the amendment would require that copies of all material disseminated by such offices, and their officials and staff members, be sent to the Department. The Department would review this material to be sure that the name of the foreign government involved was disclosed.

The Department would also check to see whether the material was within what we consider the legitimate scope of an information services' activities. If, for example, we found that the information service of a foreign country was distributing literature that contained attacks on the institutions of the United States or was designed to influence the outcome of elections in the United States, we would take steps to have the information service either cease distributing such material or would withdraw its exemption from registration with the Department of Justice. In serious cases, the Department could declare individuals to be persona non grata.

The Department would also obtain from the information services of foreign governments lists of their officials and staff members, reports concerning distribution of their material, and the names of public relations persons and firms and other contractors employed by them. The Department would make this information available to the Department of Justice.

In this way we could, I believe, obtain adequate disclosure of the activities of the information services of foreign governments and at the same time, provide adequate recognition of the fact that these services are within the normal role of foreign governments.

IV

In conclusion, I would like to state the Department's view that the hearings concerning the Foreign Agents Registration Act, and the proposals which have resulted from them, are an example of legislative leadership in a significant area.

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The purpose of the act—public disclosure of the activities of foreign agents—is an important one. We believe that the legislation proposed by the chairman and Senator Hickenlooper will promote that purpose and that it will provide a number of new and desirable safeguards as well.

The CHAIRMAN. Thank you very much, Mr. Chayes.

COMMERCIAL RELATIONSHIP BETWEEN LAW FIRMS AND FOREIGN CLIENTS

I believe you came in just after Mr. Dean started his testimony. You have had considerable experience in this area. I wonder if you would care to comment upon his suggestions or, perhaps, one would say, his fears, that this proposed legislation is too broad with regard to the ordinary commercial or professional relationship between law firms and foreign clients.

Mr. CHAYES. Well, of course, I have not had the chance to study it from that point of view.

As a matter of fact, I was just exchanging a comment with my assistant, Mr. Ehrlich, as Mr. Dean was testifying, remarking on the wide difference in point of view from which we inside the Government, exercising legal responsibilities, approach the bill, and the way Mr. Dean approached it.

I think my own reaction was that this is the kind of fear or apprehension a careful lawyer might have in looking at the bill. I do not think it is a full answer to say that, well, in the past it has not been that way. Obviously, one of the purposes of this set of hearings and of the new legislation, is to give some new impetus to enforcement activity.

As everyone has pointed out, the fact that there is an injunctive remedy rather than a criminal remedy in the new bill is likely to make court activity a little more frequent; and so it seems to me the real issue is: Can you take care of this problem without doing damage to other parts of the bill?

I have just glanced at the suggested amendments, and without wanting to take any position from the point of view of the Department, it does not seem to me, for example, that an amendment saying that "political consultant" shall not include any person engaged in the practice of law solely by reason of rendering legal advice to a client of such person, may not affect your problem too much.

It seems to me this is, as I say, the kind of thing that a cautious and careful lawyer would try to look at in advance; if he could take care of it in advance that would be fine; if he could not he would be around the next day arguing with the Justice Department that the bill did not cover him.

CLARIFICATION OF TERM "POLITICAL CONSULTANT"

The CHAIRMAN. I do not expect you to give a final answer, but I do hope in the next few weeks you might be able to give some thought as to how you think it might be improved, if it can be.

One thing did strike me that the present law is not very different in this respect from the proposed law, and they have lived with it. Perhaps if it is enforced more vigorously it might cause some inconvenience.

On the other hand, I think if it becomes a habit for people to identify their interests when they do represent a client either before the Congress or executive branch that the curse of representing a foreign

interest would be taken off. No one suggests it is not a legitimate employment or a legitimate activity. All we ask is that it be out in the open, which has not been the case in those instances which we have actually had before this committee.

Senator Aiken, do you have any questions?

Senator AIKEN. No questions.

The CHAIRMAN. We appreciate your cooperation in this very much. I am glad to know that the USIA and the State Department have come together on this. We at first thought there was some difference in the way this would be applied.

I have a few questions that, perhaps, we will try to elicit some comments on.

FOREIGN AFFAIRS MANUAL CIRCULAR

Mr. CHAYES. Mr. Chairman, if I may, before the questions begin, it might be of interest to the committee if I would submit for the record a copy of the Foreign Affairs Manual Circular amending our regulations which we have prepared and is now in effect on the subject of administration of the Foreign Agents Registration Act.

I think it is fair to say that the development of this circular grows out of the interest that the committee has expressed and has awakened in us as a result of the hearings. So if I may submit that now for the record I would appreciate it.

The CHAIRMAN. Fine. We will be glad to receive it.

(The document referred to follows:)

[Foreign Affairs Manual Circular No. 126, June 21, 1963]

ADMINISTRATION OF THE FOREIGN AGENTS REGISTRATION ACT

1. Purpose

This circular describes functions and provides procedures with respect to the administration in the Department of the Foreign Agents Registration Act.

2. Background

Officers of the Department ond oversea posts should be familiar with the provisions of the Foreign Agents Registration Act and their responsibilities under it. The Department of Justice enforces the act, but the Department of State is charged with specific supporting responsibilities. In general terms, officers of the Department are expected to help identify agents who have failed to register in accordance with the act, to scrutinize agents' statements to ascertain whether they are incomplete or inaccurate, and to help identify political propaganda which is not labeled or disseminated by agents in accordance with the act.

3. Responsibilities

Responsibility for liaison with the Department of Justice, AID, USIA, and other agencies on all matters concerning the Foreign Agents Registration Act is located in the Bureau of Intelligence and Research (INR). All inquiries and communications requiring liaison, coordination, signature, or clearance should be directed to Mr. Gene F. Caprio, Office of the Deputy Director for Coordination (INR/DDC), room 8749, extension 2097. Communications from oversea posts should carry the subject heading, "Foreign Agents Registration Act." Normally, there should be no liaison or correspondence with the Department of Justice, AID, USIA, or other interested agencies with respect to the act, except through INR/DDC.

4. Foreign Agents Registration Act

4.1 The purpose of the act is to require public disclosure of the activities and expenditures of agents on behalf of foreign principals. Disclosure reveals to the public and the Government the sponsorship of activities and expenditures of agents of foreign principals which are meant to influence, directly or indirectly,

domestic or foreign policies of the United States by the use of techniques outside normal diplomatic channels. Registration does not place any limitation on the activities of an agent in behalf of a foreign principal and it places no stigma on any person who registers. Rather, it is accepted that nondiplomatic representation in behalf of certain foreign principals is sometimes necessary because of the complexities of current international problems.

4.2 The act provides that no person shall act as an agent of a foreign principal unless he has filed with the Attorney General an initial registration statement and semiannual supplements to that statement; however, certain persons are exempt from registration. Registration statements and supplements must contain detailed information concerning the activities of foreign agents on behalf of their principals and the financial relations between them. The act also requires detailed reports on the dissemination of materials defined as political propaganda under the act. Registrants must give notice to the Attorney General concerning certain changes in their initial statements or supplements within 10 days after such changes occur.

4.3 "Agent of a foreign principal" includes, with certain exceptions, any person, who within the United States, acts or agrees to act, as a representative of any person or organization (including governments and political parties) outside the United States. This definition includes, for example, public relations counselors, lawyers, and economic consultants who represent foreign principals. There are six general classes of agents of foreign principals who do not have to register. The most important exemption relates to persons engaged solely in commercial activities in behalf of foreign principals. The definitions of "foreign principal" and "agent of a foreign principal" in section 1 and the exemption in section 3 of the act should be examined with particular care.

5. Coordination procedures

5.1 The Department of Justice now sends copies of initial statements, supplements and amendatory statements to the Department of State for review and comment. INR/DDC will distribute these to the staff assistants in the appropriate geographic and functional bureaus for comment. They should be circulated to all officers, including the Assistant Secretary, in the bureaus who may have any contact with or knowledge about the agents or their activities. Comments should be comprehensive and include any information about the agents or their activities known to the commenting officers. Comments should be returned to INR/DDC on a priority basis.

5.2 Officers approached during the course of business by any person who appears to be an agent of a foreign principal must inquire or otherwise determine whether that person is registered as a foreign agent. INR/DDC should be consulted should any question arise. All contacts (whether or not during the course of business and whether in person or by mail or telephone) with persons who appear to be acting as agents of foreign principals should be recorded. Copies of significant correspondence and memorandums of conversations should be sent immediately to INR/DDC. Officers who observe any activities of, or sponsored by, agents of foreign principals should call them to the attention of INR/DDC. That office will ascertain whether the activity in question has been properly reported in accordance with the act. Copies of printed and other materials distributed by agents of foreign principals and received by officers should be sent to INR/DDC.

5.3 "Political propaganda" is defined in the act in extremely broad terms in section 1(j) of the act and this definition should be carefully examined. Section 4 requires that material considered political propaganda within the meaning of the act shall be marked or stamped conspicuously at the beginnig of such item with a statement in the language or languages used therein, setting forth the following:

(*a*) The name and address of the agent;

(*b*) Information indicating that the agent has submitted a registration statement to the Department of Justice which is available for public inspection;

(*c*) Identity of the foreign principal for whom distribution is being made;

(*d*) Statement that copies of the material have been filed with the Department of Justice;

(*e*) Statement that the filing of a registration statement does not indicate approval of the material being transmitted by the U.S. Government.

5.4 Political propaganda produced for television, radio, or movie screens is also required to be clearly identified and labeled by the agents as material prepared in the interest of foreign principals.

5.5 The act requires that copies of political propaganda distributed by agents of foreign principals be filed with the Department of Justice and the Library of Congress. INR/DDC will procure copies from the Department of Justice for officers who wish to examine them.

5.6 The FBI conducts inquiries for the Department of Justice in cases of suspected violations of the Foreign Agents Registration Act. Officers of the Department are occasionally interviewed in these inquiries and should be prepared to assist the FBI in all cases. Arrangements for Department cooperation in these inquiries will be made by INR/DDC.

5.7 Officers in the Department as well as in oversea posts should be familiar with 22 CFR 41.124, note 9, volume 9, Visas, Foreign Affairs Manual. It describes the proper handling of visa applications of certain persons who might, while in the United States, engage in activities covered by the Foreign Agents Registration Act.

5.8 Copies of the Foreign Agents Registration Act and the Annual Report of the Department of Justice (which lists foreign agents by countries) will be distributed to all bureaus and embassies.

STATE DEPARTMENT POLICY OF HIRING REGISTERED CONSULTANTS

The CHAIRMAN. Mr. Chayes, what policy does the Department of State have with regard to the hiring, as consultants, of individuals who already are registered under the Foreign Agents Registration Act?

Mr. CHAYES. Well, Mr. Chairman, we have upon occasion in the past hired persons or retained persons as consultants who, at the same time, were registered foreign agents. I think the Department submitted to you a list of those, and then supplemented it by a list of others who had been hired by AID while having the status of foreign agents.

Our policy is, of course, to consider such retention with great care, but there are obviously some situations in which it would be possible to hire a consultant who was registered as a foreign agent when there would be no possibility of conflict of interest and when the services of the person would be of great value to the Department.

The CHAIRMAN. Are there many cases of this nature?

Mr. CHAYES. No; there are very few. I think in the statement that we submitted, which covered a period from January 1959 to August of 1963, there were nine. Two more were added in a supplementary statement, and two of the originals have since resigned.

I might bring that information up to date. Mr. Sidney Cone, who was listed in the first statement that we submitted, terminated his consultant relation, I think, last week.

Mr. Lloyd Cutler was listed on our first submission. Perhaps there is an inaccuracy there. It said he served a consultant WAE (when actually employed) to the Under Secretary on international economic relations problems which are of major concern to the Government. I think that should be supplemented by saying that for a period from February to June of 1963 for Mr. Cutler was a member of the International Business Advisory Committee chaired by Mr. Clarence Randall which advises the Secretary on business problems.

The committee met once during that period, and Mr. Cutler attended that meeting. What developed in that case, however, was that there just were too many issues on which Mr. Cutler felt it necessary to excuse himself, so he finally resigned from the committee entirely, and I think now has no further connection as a consultant or as a member of the committee with the Department.

DISCLOSURE OF NATURE OF REPRESENTATION

The CHAIRMAN. Of course, the bill does not, as you already know, prohibit employment of this nature. It is merely a case again of making it very clear why he is employed. I believe it says that you must certify that such employment is required in the national interest. The whole purpose of the bill is to make known who represents whom and for what purpose.

Mr. CHAYES. We have no objection to the requirement of certification by the agency head and, indeed, we are instituting procedures now as a regular part of our employment process, especially of consultants, to make sure that any foreign agent relationship is disclosed as a part of that process.

CONSULTANTS HIRED WHO LATER MUST REGISTER

The CHAIRMAN. What is your policy with regard to individuals who are employed as consultants and then assume employment that requires them to register under the act?

Mr. CHAYES. I do not think it would be any different except that they would have to disclose that to us, and I suppose under the bill a certification by the agency head would then become necessary.

The CHAIRMAN. Do you know whether or not the same policy is followed by the AID organization?

Mr. CHAYES. I do not know. We have submitted for the record a list of consultants employed by AID who were also registered under the act. It is a somewhat longer list than the Department's list. But I would assume, without being specifically authorized to say so, that AID would not find it onerous to comply with the terms of your bill.

DEPARTMENT ADVICE TO FOREIGN GOVERNMENTS ON HIRING AMERICANS

The CHAIRMAN. When Mr. Ball testified last February he indicated the Department had no set policy with regard to advising foreign governments on the hiring of Americans to act as their agents in the United States. Is the Department still receiving requests for such advice?

Mr. CHAYES. Well, in fact, I think perhaps more was made of that than was justified by the fact. The Department has never received many requests for such advice, and I think since Mr. Ball's testimony there have been no requests and no such advice has been given, to our knowledge.

We have, since Mr. Bell testified here, instructed our field officers to refer such requests home and not to act on them in the field.

Now, I think Mr. Ball indicated, and it is certainly our view of this matter, that the Department has to be very circumspect, and in ordinary circumstances should not advise on these matters. Obviously very many problems would arise if advice of this kind were sought and given.

On the other hand, isolated occasions may arise when in order to prevent a foreign country from being imposed on in one way or another, it may be desirable to give advice even if it is only of a negative sort.

The CHAIRMAN. You advise not to hire agents, in many cases, I would think, where some nations think it is necessary, where it is not necessary.

Mr. CHAYES. Yes. I was thinking of references to particular agents or consultants.

The CHAIRMAN. That would be a very difficult function for a public office to assume.

Mr. CHAYES. Yes, indeed.

The CHAIRMAN. I have had a little difficulty even with regard to my own constituents on domestic matters.

STATE DEPARTMENT INFORMING FOREIGN PRINCIPAL OF AGENT'S FAILURE TO COMPLETE REGISTRATION

After the February session it was also suggested that in cases where an agent in the United States failed to fully complete his registration statement, the Department of State be contacted with an eye toward their bringing the matter to the attention of the foreign principal. Has anything like this been done?

Mr. CHAYES. I do not think we have set up a formal procedure of that kind. However, the comments that we develop, for example, in the course of this new arrangement that I have described, occasionally lead to something of that kind, and one example is mentioned in my prepared statement where an individual was purporting to represent an African government, although he had not disclosed the fact on his original registration statement; and by our referring that back to the Department of Justice, the Department, first of all, got him to expand the registration statement, and then we contacted the foreign government and found that the fellow was not authorized to represent the African government at all.

So with both of the Departments moving on their own lines of responsibility and establishing effective communication between each other, I think we can handle that kind of thing pretty well.

AGENTS MISREPRESENT THEIR EFFECTIVENESS

The CHAIRMAN. It seems to me this could be a very effective method of keeping the agents in line, so to speak. I believe it is quite evident from many of the cases we had that the representative here, the foreign agent, was misleading his own client as to what he was able to do and what he actually did. If the client could be given a little objective information it would be a great help to this whole activity; don't you think so?

Mr. CHAYES. Well, we as I say, are trying to maintain that kind of relation with Justice, and in this particular case, and perhaps, some others, that is exactly the process that occurred.

The CHAIRMAN. You would accept that as one of the functions that you could perform most profitably.

Mr. CHAYES. We have accepted it since this committee has expressed its interest in this sort of problem.

The CHAIRMAN. I would think it would be very effective particularly with the new countries not being familiar with the way this Government operates.

Mr. CHAYES. That is one of the principal problems in this area.

The CHAIRMAN. During the hearings before this committee, in more than one instance, it was clearly shown that an agent was deceiving his foreign principal as to both his activities in the United States and as to the attitude of the U.S. Government. I think in at least one instance the result was harmful to U.S. foreign policy.

I think this is, as we have just said, a very important aspect of the problem.

OVERSEA PERSONNEL CONTACTS WITH FOREIGN AGENTS IN UNITED STATES

During one of our hearings it was brought out that a U.S. Ambassador was working with the American agent of the foreign government to which he was accredited in an effort to secure a U.S. Government-financed housing project for that foreign government. Does the Department have any regulations requiring personnel overseas to report their contacts with foreign agents operating within the United States?

Mr. CHAYES. I think our new procedures do require that. One of the problems that we discovered in our preparation for Mr. Ball's testimony was that our personnel, both here and abroad, were not sufficiently alert in, first, requiring such agents to identify themselves and the source of their representation and, second, in reporting this to a central point in the Department.

My understanding is that our new regulations require that both from oversea and domestic posts.

Let me consult for one moment. I am informed that my answer is correct.

The CHAIRMAN. In one of the cases I had in mind there was no question, I think, from the testimony that the Ambassador knew of this regulation. But of course, he was in favor of the project. But I would think that the Department ought to take a position that our Ambassador ought not to engage in this kind of activity.

Mr. CHAYES. Well, under the new regulations he is instructed to report his contacts with foreign agents to the Department. Obviously, as you say, a good deal of this activity is legitimate. I deal with lawyers and others who are foreign agents constantly. Often their interests are not different from those of the United States, and if it is known who they are and who they represent, and if the appropriate authorities have the opportunity to make an independent judgment as to what the interests of the United States require, there often can be a fruitful collaboration between the foreigner or the foreign principal, and also his agency, and the U.S. Government.

So that it is not desirable, I would think, and I do not think the bill moves in that direction—it is not desirable to prohibit this kind of collaborative activity when it is surrounded by appropriate safeguards.

Now, I do not know the details of the particular case you are commenting on, so I cannot say whether it is within that class or not.

The CHAIRMAN. I think it was unclear as to whether the Department knew about it.

Mr. CHAYES. That we have taken steps to correct it.

The CHAIRMAN. The act as it now stands requires these government information offices to register.

Mr. CHAYES. Yes, Mr. Chairman.

CRITERIA FOR GRANTING DIPLOMATIC STATUS TO INFORMATION OFFICERS

The CHAIRMAN. It was suggested, as you know, yesterday that diplomatic officers individually can be and have been exempted under section 3(a) of the act as diplomatic or consular officers.

Mr. CHAYES. Yes. For example, the press officer of an embassy who carries on the day-to-day news briefing functions might be exempted as a diplomatic officer.

The CHAIRMAN. Can you give for the record what are the criteria for granting diplomatic status to these officers?

Mr. CHAYES. Well, in general, it is that he performs diplomatic—you mean to press officers or generally?

The CHAIRMAN. Yes, information officers.

Mr. CHAYES. Information officers. He is attached directly to the embassy, works directly under the control and supervision of the ambassador, and he is a part of the embassy establishment in the narrow sense of the word. He is a press attaché like the military attaché is a military attaché.

The CHAIRMAN. Does that apply to all governments?

Mr. CHAYES. I think we would grant credentials on those criteria to all governments; yes.

The CHAIRMAN. Is it possible to extend this exemption to the information office as such as opposed to the individual officer?

Mr. CHAYES. Well, we do not do that now because the act requires that the information service register the information service of a foreign government. But the effect of the amendment proposed by the USIA would be just that, to extend the immunity that now applies to a press attaché or a cultural attaché to the government information office which may carry out very similar functions.

CHARACTERISTICS OF OFFICIAL INFORMATION OFFICE

The CHAIRMAN. Can you describe for us what is meant by an official government information office?

Mr. CHAYES. Well, what is meant by it is an agency like our own U.S. Information Agency or like the French Information Office, or the British Information Service. In other words, it is an agency which is a recognized arm of the governmental establishment. It is inside the government establishment. It is financed by ordinary budgetary procedures coming out of public funds, and so on.

I would say, the best way to define it is that it is an agency of the government rather as an outsider doing work for the government.

The CHAIRMAN. It was our understanding that one of the newer nations, I believe it was an African nation, hired a New York public relations company which was then designated as the government information office in the United States, with a national of the foreign government listed as the information officer.

Do you think that information office would be exempt?

EXEMPTION UNDER USIA AMENDMENT

Mr. CHAYES. Well, it would not under this amendment because only noncitizens can be exempted under this amendment, so that if the information or public relations office was staffed by U.S. citizens they could not get the advantage of this exemption.

The CHAIRMAN. Then it would not be exempt?

Mr. CHAYES. It would not be exempt under the proposed USIA amendment. It would not be eligible for exemption under the proposal of the USIA amendment.

I should stress, Mr. Chairman, the difference between eligibility for exemption and exemption. All that the proposed USIA amendment does is set up qualifications for eligibility for exemption. But, as you will see from the terms of the amendment, there is considerable

discretion whether to exempt individuals or agencies that may fall within the eligibility for exemption provided by the USIA amendment.

The CHAIRMAN. I am not clear about the case of the public relations company which is an American company if it is hired and then designated as the government information office. I do not see how that would be eligible as an information office, would it?

Mr. CHAYES. You are saying the office itself that would be designated?

The CHAIRMAN. Yes.

ELIGIBILITY FOR EXEMPTION

Mr. CHAYES. Well, I am not altogether sure, in the first place, how meaningful it would be because any member of that office who was a U.S. citizen would still have to register. Under those circumstances it seems to me that the Department might simply not grant the exemption in the particular case, because it would not serve the purpose of the exemption.

The CHAIRMAN. It is the activities of that office as such that we would be interested in, of course.

Mr. CHAYES. Yes. But what I am saying is, first of all, all the individuals within the office, if they were U.S. citizens, would have to register, would not even be eligible for exemption. So that the only thing that might be eligible for exemption would be the office as an entity.

Under those circumstances I would think it would be very unlikely that the Department would certify that office for exemption under this amendment. The purpose of the amendment is not to deal with agencies of that type.

The CHAIRMAN. Would an information office made up of a group of countries such as the one discussed by some African states, as distinguished from a single country, be exempted under this amendment?

Mr. CHAYES. The amendment in terms does not read on that, so it would be an interpretive problem. I really have not considered that specifically, Mr. Chairman.

You can see how you might interpret the exemption to cover it or not. If it were carrying out the kind of activities that we regard as basically within the diplomatic function, I would offhand see no reason for not applying the exemption to it.

If, on the other hand, it were a tourist office and were not carrying on the kind of information activities which we think of as part of the modern practice of diplomacy, of course, it would not be eligible.

BROKEN DIPLOMATIC RELATIONS

The CHAIRMAN. What would be the situation of the government information office of a country with whom we have broken diplomatic relations?

Mr. CHAYES. If we are not in diplomatic relations with it, then since this is part of the diplomatic establishment, as we see it, it would either withdraw or lose its exemption.

The CHAIRMAN. It would lose its exemption.

Mr. CHAYES. I think so. The whole theory, the whole philosophy of this amendment, is that a certain amount of press, information, cultural activity has become part of the ordinary business of diplomacy

just as in the beginning commercial and economic activity may not have been thought of as so intimately related to diplomatic activity proper. But then gradually the pattern of diplomatic activity has come to embrace a broader range of affairs, and now the Department and this Government, I think, through its own policy, with respect to the USIA, has recognized that there is a range of legitimate foreign policy activity involving information, cultural relations, and so on.

DEFINITION OF OFFICIAL INFORMATION ACTIVITIES

The CHAIRMAN. Let me see if we can sort of bring this together. It seems to me there might be two courses that we might follow. We would like your opinion on them. The first would call for an exemption by law for government information offices and foreign nationals employed by them, provided their activities are recognized by the Department of State as being within the normal scope of official information activities

This proposal would further require the Department of State to seek administratively from the foreign information office information as to the details of their activities, including the names of all those individuals employed by the foreign information office for services and goods. In addition, the foreign information office would provide the State Department with copies of all the material it disseminates.

What do you consider to be informational activities that are within the normal scope of official information activities?

Mr. CHAYES. Well, I think Mr. Wilson yesterday in his statement listed those that we, together with USIA, have agreed would fall within that definition: Descriptive information about the people or the scientific, educational, social, economic, political, legal institutions of the country; or the geography of the country; the distribution of speeches of the officials of the country; analysis or dissemination of the position or views of the country on current or proposed U.S. foreign policy directly affecting that country; promotion of exhibitions of or cultural presentations; and a certain amount of representational activity within reasonable limits associated with those other matters.

The CHAIRMAN. I think you are aware of the various methods for disseminating information that have been disclosed during the committee's investigation. Do you consider free trips for journalists and others to be a normal information function?

Mr. CHAYES. Well, as I say, we believe that a certain amount of representation activity within reasonable limits can be considered normal.

I would think that there could be situations in which a journalist could or might properly be given a free trip to a foreign country or some share of the expenses be borne by the foreign country.

Senator SYMINGTON. Mr. Chairman, would the Senator yield?

The CHAIRMAN. Certainly.

TRIPS SPONSORED BY OTHER U.S. GOVERNMENT DEPARTMENTS

Senator SYMINGTON. In support of Mr. Chayes' position, the Defense Department spends a good many dollars every year giving trips not only to journalists but other people.

As to whether it is done in other departments I do not know.

I only make that comment because I am sure that whatever is spent by the State Department and other departments that have considered it important to promote our position abroad is relatively small. I thank the Chair.

Mr. CHAYES. Thank you, Senator Symington. I would add only that we do bring journalists over here in connection with our own exchange programs.

ACTIVITIES SHOULD BE MADE PUBLIC KNOWLEDGE

I would distinguish sharply perhaps a mass junket of some kind with no specific purpose in mind, and with a lot of nonjournalistic activity, shall we say, connected with it.

But it seems to me this is the kind of thing that just has to be subject to a rule of reason. One of our objectives is the dispersion of knowledge about each other throughout the world.

The CHAIRMAN. Mr. Chayes, the point I was seeking to make was not that these activities be prohibited but that they be made public and be public knowledge, so that the reports of the journalists are considered in view of this activity. That is the whole theory of this law.

We are not proposing to prohibit journalists from pursuing these activities, but if they do it, it should be reported and should be public knowledge. Isn't that what we really are concerned about?

Mr. CHAYES. Well, I think myself that a better approach to the problem is in connection with the reasonableness of the scale of the activity. I do not know that simply recording in some Government department the fact that such and such a journalist had made a free trip to X country is going to do very much by way of public appraisal of his further writings.

The CHAIRMAN. They went to a great deal of trouble not to disclose it. That is quite clear. So there must be some significance to it.

Senator SYMINGTON. Would the Chair yield?

The CHAIRMAN. Yes.

DEFENSE-SPONSORED TRIPS ARE COMMON KNOWLEDGE

Senator SYMINGTON. I must say all trips I was referring to, of the Department of Defense, are a matter of public record, to the best of my knowledge.

The CHAIRMAN. The cases we had in mind are where these trips are given with the expectation of favorable reviews, favorable stories. As I say, there is no intention of saying, "You shall not do that but that if you do it that this should be on the public record." Now, it was not on the public record in most of the cases that came to our attention.

DISCLOSURE OF FINANCIAL SOURCE OF TRIP

Mr. CHAYES. I certainly agree with the chairman and with the committee that it is wrong to hide the source of the financing or to take any steps to hide it.

I was talking more specifically, I thought, to the problem of how you would handle trips financed by a foreign government information office under the terms of this amendment.

The CHAIRMAN. That difficulty is what I was trying to get at. If a trip is taken and the foreign government pays for it, should it not be reported as part of their activities.

Mr. CHAYES. Well, of course, we have agreed that the foreign government would report everybody that it hires to do work for it, and so on. I suppose it is not a very serious extension of that concept to say that it should also report free trips.

The CHAIRMAN. Also it does not strike me that this is what you consider a normal function of an information office, to finance trips abroad and not report them.

Mr. CHAYES. Well, if you add "and not report them," I would agree. So that I do not see any objection to our requiring such reports as a part of the general notion we have already talked about that exists in the amendment.

The CHAIRMAN. These cases, as you know, to which I have made reference, are where the public relations firm hired by the foreign principal promoted and paid for the trips by the journalists with the expectation, I am sure, of their writing very favorable reports.

Mr. CHAYES. That, of course, if it were done by the public relations firm, would still be required to be reported to the Justice Department.

The CHAIRMAN. Shouldn't it be if it is done by the Government information office? It seems to me that it ought to be. The fact that it is not a normal diplomatic function is the distinction I was seeking to make.

Mr. CHAYES. Well, if it is hidden I would suppose it is not and, therefore, I would see no objection to including the names of journalists who got free trips—they might be exchange visits or something of that kind—in the list of people with whom that information office deals or makes arrangements.

EXCHANGE OF VISITOR TRIPS

The CHAIRMAN. All activities by the Federal Government you referred to before of bringing over visitors, as being all out in the open, are well advertised and publicized. In fact they like to publicize them.

Mr. CHAYES. But I am not sure though that the foreign reader, when he reads a particular piece by a particular journalist in his local newspaper, knows that that journalist has just been on a visit to the United States at the expense of the U.S. Government.

The CHAIRMAN. In many cases I have seen where the article is carried more or less with the idea that the writer has had a special opportunity to observe. No effort is made to conceal that fact that I know of. Normally it is the opposite.

Mr. CHAYES. I think the main point of the disclosure is to enable us to see that the activity is kept within reasonable bounds rather than being used as a sort of flooding technique.

IS DISTRIBUTION OF FILMS A NORMAL INFORMATION FUNCTION?

The CHAIRMAN. Do you consider the giving away of films to be a normal information function?

Mr. CHAYES. Assuming that the content of the films falls within these classes that I have already listed, and assuming further that the

source of the film is labeled, it does not seem to me that there is any necessary inconsistency between film distribution and normal information function.

The CHAIRMAN. Particularly if its source is labeled. That is the important thing.

Mr. CHAYES. Yes. As you see, the amendment proposed requires that the matter disseminated shall be identified as being disseminated by such foreign government.

The CHAIRMAN. That is right.

Mr. CHAYES. So we would require, in order to maintain the exemption, that the material disseminated be labeled as a government originated product.

The CHAIRMAN. Would these films have to be filed with the Department?

Mr. CHAYES. Yes. The amendment proposed requires also that they shall be filed with the Department of State. We would have to review the films as well as written or printed material to see that they fall within these categories that we regard as normal diplomatic information activities.

IS PAYMENT TO SYNDICATES A NORMAL INFORMATION FUNCTION?

The CHAIRMAN. Do you consider the payment to syndicates for the placement of editorials to be a normal information function?

Mr. CHAYES. I would have serious doubts about that; and, again, of course, if the editorial is produced or is a product of that office, it would have to be identified as such, and maybe that would destroy the value of the payment anyway.

The CHAIRMAN. You know how it was done here. They just purchased editorial materials which were then distributed to many small papers, about 1,200 to 1,500.

Mr. CHAYES. The fact that the whole purpose of such an arrangement would be to dissemble the source of material, it seems to me, makes it inconsistent with this amendment which requires that the source be identified.

The CHAIRMAN. I agree with you. I just wanted your views about it.

Mr. CHAYES. Therefore, it would not fall within this exemption.

The CHAIRMAN. That kind of activity would not be a normal information function.

SUBSIDIZATION OF PUBLICATIONS

Do you consider the subsidization of publications, whether directly or through purchase of a substantial share of the subscriptions, to be a normal information function?

Mr. CHAYES. Well, it all depends on what kind of publications. For example, we, as you know, distribute Amerika, one of the best picture magazines in the United States, but we distribute it in Russia.

The CHAIRMAN. That is clearly labeled as your production.

Mr. CHAYES. That is right.

The CHAIRMAN. But that is not the case I had in mind at all. A case I had in mind was a publication which is not produced, but purchased by the Government. We had one case where 50 percent of the subscription list was purchased by the foreign principal and distrib-

uted, in effect, free to various people of their choice. It was obviously not labeled because it was not produced by the Government.

Mr. CHAYES. Well, there again there are problems of degree. For example, I can conceive of a foreign government seeing an article in a magazine that it believes is extremely favorable to it or gets across a point that it wants to get across. I can see that it might buy up a lot of copies of that particular issue and distribute it. I do not know that we do this, but one of the things that you might want to do as an information officer was to show that some independent source of opinion.

The CHAIRMAN. Suppose, the case I had in mind was a magazine that is struggling along and is not too profiable. They just agree as a regular matter to take 50 percent of their subscription regularly. That is a form of subsidization, is it not?

Mr. CHAYES. If what is involved is an effort without disclosure to promote the government's line through a particular publication by means of a subsidy to it, then I believe that is not a normal function and, again, because of the provisions of the proposed exemption requiring disclosure would be disqualified for the exemption.

FURTHER QUESTIONS ASKED OF WITNESS

The CHAIRMAN. I have a few more matters here which we will submit to you in writing. The Senator from Missouri has to leave, and we will have to go to the floor, so I will desist at this moment. The staff will submit these to you for the record so that you can supply the answers for the record.

Mr. CHAYES. I will be very glad to respond, Mr. Chairman.

The CHAIRMAN. What we are trying to do is to clarify this amendment so there will be as little misunderstanding as possible in the future as to what we mean by it and what is required by it. There has been some suggestion that the law has not been clear, and it was not known exactly what was allowed and what was not allowed, and whether registation of certain activities was required.

We will excuse you now unless you have something further you would like to say.

Mr. CHAYES. No. I myself and my staff will be at the disposal of the committee for these purposes.

The CHAIRMAN. The staff will be in contact with you and if we can improve and clarify this law, we will.

Mr. CHAYES. Thank you very much, Mr. Chairman.

(A further communication from the Department of State appears in the appendix.)

APPEARANCE OF GEN. JULIUS KLEIN

The CHAIRMAN. The next witness is Mr. Klein, Mr. Julius Klein, of Chicago.

Mr. Klein has requested to be heard on this bill. You may proceed, Mr. Klein.

COMMENTS OF SENATORS SYMINGTON AND MORSE

Senator SYMINGTON. Mr. Chairman, inasmuch as I will not be able to stay through the statement, some 14 pages, would the Chair allow me to refer to a letter that Senator Morse has written me, because he

had to be out of town today, and then make a very few comments on my own?

The CHAIRMAN. Certainly.

Senator SYMINGTON. Thank you, Mr. Chairman.

The distinguished senior Senator from Oregon has written me a letter which takes issue with some of the recommendations made by General Klein with respect to the bill under consideration. However, the Senator emphasizes that he has known General Klein for many years, 19 years to be exact, and that he has a high regard for his integrity and his efforts to follow any legislation under which he operates.

One statement, one sentence, in his letter:

> I wish to repeat that, on the basis of the friendship that has existed between us for 19 years, it causes me to believe that he is a highly honorable man.

As mentioned there, Mr. Chairman, he goes into some detail with respect to his disagreements with the proposed amendments to the legislation recommended by General Klein.

Speaking for myself, and because this matter is basically one of interest to General Klein, first I want to express my opinion about these hearings. They have been constructive, and we have found people who, in my opinion, should not have been operating the way that they were operating and therefore any comments that I make are in no sense a criticism of the hearings. I congratulate the Chair on much of what has been accomplished to date.

So far as General Klein himself is concerned, as I understand it, he has had some unfortunate publicity in foreign countries, which has unfairly represented the result of his appearance before the committee, and also the committee's conclusions with respect to his activities.

BACKGROUND OF GENERAL KLEIN

I also have known General Klein for some 18 years. We worked together in the Department of Defense under the late great Secretary of War, Robert Patterson.

General Klein was a colonel first, then a general on the Secretary's staff. At that time I was Assistant Secretary of War for Air, and he was a liaison between the Office of the Secretary and the then Army Air Corps.

I also knew him through his close friendship with the late Senator Robert Taft who was a true student of airpower, as we all know. General Klein also operated as liaison between Senator Taft and the Army Air Corps before it became the U.S. Air Force.

I concur in what Senator Morse has said. I believe General Klein an able and honorable American, who has served his State of Illinois in significant positions well in the past, and he has also served the Nation in positions of trust.

I would hope that anything he believes this committee has done to hurt his position with some of his clients abroad, that he realizes, based on what he showed me and Senator Morse yesterday, that this was not a fair interpretation of the committee's hearings.

Mr. Chairman, I am grateful to you for letting me make this statement at this time. I would like to remain to listen to the presentation of General Klein, but must be on the floor at 12 o'clock.

The CHAIRMAN. The committee has no authority to meet beyond 12. We will have to adjourn at 12, so the Senator may do as he likes.

Senator SYMINGTON. I ask unanimous consent, Mr. Chairman, that Senator Morse's letter be made a part of the record.

(The letter of Senator Morse referred to follows:)

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
November 19, 1963.

Hon. STUART SYMINGTON,
U.S. Senate, Washington, D.C.

DEAR SENATOR SYMINGTON: It will be impossible for me to attend the Foreign Relations Committee meeting tomorrow morning, November 20, at which Maj. Gen. Julius Klein is scheduled to testify on S. 2136.

In view of our conversation today, I would appreciate it very much if you would ask permission in my behalf to insert this letter in the record of the hearing tomorrow morning.

First, I wish to make some comments about Klein himself, and then I want to make a statement in regard to the arguments he has advanced in his prepared statement in opposition to S. 2136.

I have known Julius Klein for the 19 years that I have been in the Senate. I knew him all the time I was a Republican, as well as during the period I have been a Democrat. He has been a public relations man during that period of time, representing various clients on many matters. I have always found him to be completely nonpartisan in any of the representations he has ever made to me in regard to any subject matter in which he was interested in his capacity as a public relations man.

I also have always found him to be honorable, and I have never known him to misrepresent facts about any issue or attempt to deceive me. On some matters involving his public representations, I have disagreed with his position and opposed his recommendations in carrying out my duties as a Senator. On other occasions, I have concluded that the facts have supported his position, and in those instances, I have favored his side of some given legislative issue.

I am very sorry that his work as an adviser to the West German Government which has been under investigation by our committee apparently is receiving bad headlines in Germany as the German newspaper stories which you and I talked about today indicate. I am satisfied that in connection with any service Mr. Klein rendered the West German Government as a public relations agent in the United States, he performed that service with full disclosure to the German Government as to the representations he was making in behalf of that Government in the United States and did not knowingly or intentionally engage in any illegal action.

As he points out in his statement, the term "foreign agent" has a negative connotation in the minds of many newspaper readers and undoubtedly the newspaper stories concerning our committee's investigation of the activities of foreign agents may have caused many people to assume incorrectly that services rendered the United States by American representatives of foreign governments who function in the capacity of public relations representatives necessarily carries with such work negative connotations. However, in my opinion, that is neither the fault of the Foreign Relations Committee nor of the law. It is one of those risks relative to public reaction that anyone working in this field must necessarily run.

I do not think that our Foreign Relations Committee is subject to any criticism because of the fact that representatives of foreign governments acting under the Foreign Agents Registration Act of 1938 may have suffered some criticism or injury to their professional standing as a result of the committee of the Senate carrying out its clear duty to try to find out what has been going on under the administration of the Foreign Agents' Registration Act of 1938. In one respect, it is somewhat similar to the risk that anyone runs as a result of a grand jury indictment.

There is no doubt about the fact that no matter how innocent one's conduct has been in regard to any matter, if it develops that the grand jury issues an indictment which later is either quashed or a petit jury acquits, there is no doubt about the fact that the person indicted has been injured. Sometimes, I refer to such situations as part of the price of being freemen. Freedom comes high, but it is worth the cost.

I feel that so long as representatives of foreign governments conduct themselves honorably and properly within the law, the facts concerning their record will stand up against any investigation or inquiry into their course of conduct.

On the basis of any information I have received to date, I am sure that Mr. Klein's record in carrying out his public relations work will support the representations he has made in his appearances before the committee.

I wish to repeat that on the basis of the friendship that has existed between us for 19 years, it causes me to believe that he is a highly honorable man.

Now a word about Mr. Klein's prepared statement in opposition to S. 2136. I find myself in disagreement with a good many of his criticisms of the bill. It may be that before we finish the markup of the bill, some of his criticisms and those of other witnesses should cause us to modify the bill. However, I do not think that his major criticisms are sound.

I refer particularly to the specific comments he makes on pages 5, 6, 7, and 8 of his prepared statement. As an introduction to the specifics he lists on those pages, he says, "Would legislation really control the bad ones?" In this reference, he is referring, of course, to agents representing foreign governments. I think most of his comments on this point constitute non sequitur arguments.

Murder laws, of course, do not stop murders, but all of us are a lot safer with the murder laws, and we have fewer murders than we would otherwise have. I know of no law that will control the bad ones, to use Mr. Klein's phrase, if any individual is determined to flaunt the law.

However, I do know that our hearings show that the Foreign Agents Registration Act of 1938 is very much in need of amendment, and I think S. 2136 is a move in the right direction. I am perfectly willing to consider any proposal that will improve S. 2136, but I feel that Mr. Klein's prepared statement represents too much of an ignoring of the serious defects which have developed under the operation of the Foreign Agents Registration Act of 1938.

Incidentally, I think some of those defects would never have developed if the Department of Justice had lived up to its clear responsibilities of effective administering of the law. Nevertheless, effective administering of the Foreign Agents Registration Act of 1938 will not resolve many of the defects which have been shown by the hearings of the Foreign Relations Committee to exist. Therefore, I shall continue to support amendments of the Foreign Agents Registration Act of 1938 along the lines of S. 2136.

I think that the prepared statement which Mr. Klein will give at the hearing on November 20 deserves very careful analysis by the committee in the markup of the bill in order to doublecheck and make certain that the final bill will not be productive of some of the shortcomings that Mr. Klein fears. But I do think that we must see to it that the agents representing foreign governments are required to operate under full public disclosure for all their activities, because in a democracy there is no substitute for full public disclosure of any activity that affects the public interest.

I am sorry that I cannot be at the hearing, but I shall appreciate very much your making this letter a part of the record.

With warm personal regards,

Cordially,

WAYNE MORSE.

The CHAIRMAN. Mr. Klein, do you wish to submit your statement for the record and to comment on it?

STATEMENT OF GEN. JULIUS KLEIN, CHICAGO, ILL.

General KLEIN. Yes, Mr. Chairman.

I appreciate the statement given by Senator Morse and Senator Symington, and I am deeply grateful.

I have prepared a statement, but I realize the chairman's time is limited, so I most respectfully request that my statement, which has been given to the committee, be made a part of the record.

The CHAIRMAN. That shall be done.

General KLEIN. Thank you, sir.

I would like to read a brief statement on a matter of personal privilege. I would like to associate myself, Mr. Chairman, with the statement made by Ambassador Dean.

General KLEIN. I would like to associate myself with the statement presented this morning by Ambassador Dean, who is the head of the law firm of Sullivan & Cromwell, and has been associated for many years with the late John Foster Dulles. I think Ambassador Dean has better expressed his views than I ever could, and I think he covered also the field of public relations in his statement, and I fully agree with him.

Mr. Chairman, I have tried to give you my views regarding your bill which I have submitted right now, and my reasons for believing its enactment in its present form will not be in the best interests of the United States. I have pointed out where I can envisage that foreign private businesses will not employ persons to represent them in the United States because of the provisions which would require their representatives to register and reveal details of the business of their principals and that this could result in American isolation economically, politically, and militarily.

PUBLICITY OF COMMITTEE HEARINGS

As a matter of personal privilege, I would like to state that I have been personally hurt, businesswise, by the publicity which has resulted from the committee hearings during the past few months and by the announcement of November 4 regarding the present public hearings.

You will recall, I am sure, that the release of November 4 announced that with publication of the hearings of the committee, which covered my testimony, the investigative hearings of the committee on the activities of nondiplomatic agents of foreign principals was concluded. The same release announced, also, the hearings on S. 2136 which are presently being conducted. In addition, the same release contained an expression which has been interpreted by many segments of the press, foreign as well as domestic, as personal criticism against me by the entire Senate Foreign Relations Committee.

I am confident that the implication in that portion of the release was not intended as personally harmful to me by the chairman, who made the statement, but was intended to show why the committee chairman feels it necessary to amend the present registration legislation.

However, with your kind permission I would like to show you a few samples of how misinterpretation was given to that statement.

PRESS REPORTS

The United Press International which first released the story was not factual. The Associated Press story was. The UPI took immediate corrective measures, as did the New York Times, Chicago newspapers, and other U.S. papers in the United States, for which I am grateful, but the German press still features these attacks on me which are not in line with what actually took place at the executive hearing or subsequent to that hearing.

I have before me some of the newspaper stories from the German press, such as the Hamburg Echo of November 5, 1963, which stated in headlines that the Foreign Relations Committee of the U.S. Senate criticized me and severely labeled me as a lobbyist under attack of the Senate committee.

I have another clipping from the Frankfurter Neuepresse with headlines of the same date, which read, "Serious Charges Against General Klein by the Foreign Relations Committee of the Senate in Regard to Klein's Lobbying Activities."

I could go on and quote you many more articles which were dispatched from Washington news services and rewritten and distorted and then attributed to the Senate Foreign Relations Committee, per se, criticizing and condemning me.

I am glad that the New York Times and other U.S. newspapers corrected that, including the UPI wire service, corrected the original dispatch, but you know a correction never gets the same coverage or space as the original dispatch. I am also grateful for the letter from the assistant managing editor of the New York Times informing our offices of the correction. I would like to cite an excerpt from a letter which I have just received from a distinguished Democratic member of the Foreign Relations Committee who was present when I testified. It was not Senator Morse, Senator Humphrey, or Senator Symington. He wrote:

> I am sorry indeed for the embarrassment you suffered from unjustified publicity. As you say, the correction seems never to overtake the erroneous first impression or charge. From your long years in public or semipublic service I know this is not an entirely new experience for you, no more than it is for me. Even so, this offers but little consolation. Your friend.

Of course, I agree with the observation of your colleague who is a member of your committee.

ATTITUDE OF EUROPEAN PRESS TO WITNESS

As a matter of information, certain segments of the press, particularly in Europe, have for months printed articles derogatory to me as the result of the committee hearings. The radio and press behind the Iron Curtain has especially attacked my role, a role of which I am very proud. In fact, long before the hearings were started, a distorted and out-of-context article, which was published over a year ago in one of our leading news magazines, was the opening of a pandora's box for hostile elements of the West German press. When I say, "hostile press," I am referring to publications in West Germany which were unfriendly to the Adenauer administration and to our own U.S. foreign policy. There is no mystery to the fact that I have maintained a close, personal relationship, over a number of years, with Chancellor Adenauer and, also, with a number of his official staff and his close associates.

I have also enjoyed a close personal relationship with a great number of people in Germany—industrialists, financiers, lawyers, teachers, doctors of medicine, ordinary citizens and, of course, with persons who have belonged to parties not alined with the Adenauer party.

However, I can say without fear of contradiction that I have never by voice or other actions indicated what my feelings might be in relation to partisan politics within that country. And, of course, neither have I discussed partisan politics of my own country when I am abroad.

While abroad I have supported at all times the interest of the United States, irrespective of whether we have a Democratic or a Republican administration.

As an example of the ridiculous limits such distortions can go, I call your attention to a November 7 policy statement by the German Socialist Party.

Basing its action on the reports of this committee's hearings, the Social Democratic Party is requesting that I be investigated in Germany for anti-Kennedyism and un-Americanism.

Does this mean I am to be investigated by a foreign parliament for anti-Kennedyism? And as the result of these hearings?

This is the height of absurdity. When I present myself to foreigners I present myself, not as a Republican, not as a Democrat, but as an American, supporting my President and my country's policy. This is well known, and has never been questioned—until now. And the only reason it is being questioned is because of the distortions that have resulted from this committee's hearings. The same statement says that the anti-American campaign in Germany, which apparently was instigated by me, should also be investigated. I think this is the place to do the investigating, and this committee has been more than fair to me; so was the chairman, which I appreciate.

MISINTERPRETATIONS IN GERMAN PRESS ALLEGED

Many German press distortions occur because of faulty translations or because certain words and expressions, as used in the United States, mean something quite different when put into German language. For example, the word, "hearing," as we in this country understand it, means an investigative process for obtaining information. In Germany, that word and the word "investigation," stand for something far more ominous and are synonymous with a court trial.

Certainly, the implication is clear to Germans that a hearing or an investigation is tantamount to a trial for a criminal offense. Naturally, this false interpretation has given additional ammunition to those who would be glad to add a bit of distortion to an item even though its meaning might be perfectly clear.

I fully realize, Mr. Chairman, that you or your committee cannot be held responsible for purposeful distortions, misinterpretations, and misuse of out-of-context excerpts, but I am sure you must admit that I have a right to be disturbed when a published release by the committee chairman contains a statement which can readily be interpreted not only as a reflection on me, but also upon his fellow Members of Congress.

I refer in this instance to the release of November 4, which says:

> **The hearing again discloses how a foreign agent, by exaggeration, or misuse of his relationship with Members of Congress, can for his own purposes create for foreign governments, officials, or business interests a mistaken and sometimes unflattering picture of how our governmental institutions function.**

The implication in this statement is that I have been able to dupe Members of Congress, as well as my foreign clients, and because they have been duped, they must be dupes, a rather unflattering statement in itself and, certainly most unfair to all concerned.

I am proud to have the friendship and respect of many Members of Congress and I am sure, Mr. Chairman, that not a single Member will state that I have ever taken advantage of such friendship. I certainly believe that this hearing should be the medium for informing the Members of Congress, and the public as a whole, that ethics do

exist within the Halls of Congress and that Members of Congress are responsible adults who are fully capable of resisting being duped.

Perhaps this revelation might even be broadened to include those who also have ethics and are the accepted friends of Members of Congress. I have never had the privilege of personal association with you, Mr. Chairman, and, therefore, am unable to determine what might be the basis for your personal opinion on this subject of duping.

However, I can heartily disagree with your published statement even though I must respect your right to express your views as you hold them. Your voice is a powerful and respected one, both here and abroad.

OBJECTION TO PRINTING OF DEALINGS WITH COMMERCIAL CLIENTS

Another matter to which I object as unwarranted and even unethical is the inclusion in the printed hearing of the portions of my testimony pertaining to contracts and dealings with my commercial clients. The publication of this portion of my testimony, which I asked to be deleted, has been particularly injurious to me and to my clients and there are no political implications in those portions. However, there is little doubt that this information will prove highly beneficial to my clients' competitors, as well as those of myself, and I am sure they will take advantage of this windfall.

I understand that certain high officials in the present administration were actively registered in the past as foreign agents. However, there have been no reports that they were cited as "horrible" examples of foreign agentry. Having been singled out, I cannot help but wonder why cases have been overlooked, particularly by the press.

I do not know to what extent you or your commitee will go to bring clarification to points of question, such as I have tried to illustrate, but I can assure you that it would be most helpful to me if certain clarification could result. I know that corrective action by the committee would have healing effects on some of the wounds that have been caused in Germany and could be beneficial in advancing the mutual interests of the United States and that country.

TRADE BETWEEN UNITED STATES AND GERMANY

And if I may add a rather personal note, it might even help me salvage some of my German accounts and continue to bring good American dollars into the United States. I am proud to represent German industrialists, to promote trade to and from the United States and I know that the work I have been doing has been to the best interests of America.

I hope the committee, in its wisdom, will see the desirability of facilitating trade between the United States and Germany and will not adopt measures which can only hamper. I would like to see an expansion of trade between Germany and United States and I believe this is what you, too, have been promoting.

Also, I would like to see the ties between our Nation and our NATO allies strengthened.

GEORGE C. MARSHALL CEREMONIES IN FRANKFURT

And, now as a closing thought, it was my privilege to be in Frankfurt, Germany, 2 weeks ago on the occasion of the dedication of the monument to the late Gen. George C. Marshall. I was an invited guest as were the chairman and other members of the Senate Foreign Relations Committee. It was enlightening to witness the high regard in which the Federal Republic holds the members of this committee and its distinguished chairman. The newly elected Chancellor Erhard and the German people were most pleased with the presence of these Members of Congress as well as that of Mrs. Marshall and Secretary of State Rusk.

General Marshall was my colonel 30 years ago and my dear friend for many years. He served in Chicago as our colonel instructor. I have deep sentimental ties to the late General Marshall. His former aide, Gen. Kenneth Buchanan, who is sitting right next to me, is the vice president and general manager of my company, has been associated with me since his retirement from the service.

I am proud to say that at the time of the announcement of the dedication of the General Marshall monument, my Frankfurt office enthusiastically supported this project from the beginning.

I thank you, Mr. Chairman, for your consideration, and do hope whether we agree or not that you will accept my statement with the belief that I helped this committee and you, Mr. Chairman, in order to bring about clarification and protect the interests of the United States. Thank you, Mr. Chairman.

(The prepared statement of General Klein follows:)

STATEMENT OF THE VIEWS OF MAJ. GEN. JULIUS KLEIN (U.S. ARMY RETIRED), REGARDING S. 2136

Mr. Chairman, I am Julius Klein of Chicago. I am the head of the firm bearing my name, Julius Klein Public Relations, Inc., an international public relations organization with offices in Chicago, Washington, New York, Los Angeles, and Frankfurt-am-Main, Germany, and with active associates in Vienna, Paris, and Manila.

I request that this statement, which expresses my views regarding S. 2136 a bill to amend the Foreign Agents Registration Act of 1938, as amended, be incorporated as part of the official record of the hearings to be conducted by the Senate Foreign Relations Committee during the period of November 19 to 21, 1963. I feel that I am qualified to make this personal statement because of my experiences in foreign fields and because I have been registered to represent foreign principals under the provisions of present legislation.

I request that my views be given committee study and will appreciate your consideration of this request.

CLARIFICATION OF INTENT OF HEARINGS

The hearings which were conducted by the Senate Foreign Relations Committee during the past few months on the two subjects: "Nondiplomatic Activities of Representatives of Foreign Governments," commonly known as foreign agents, and "Lobbying," have brought forth many important as well as controversial points. Unfortunately, many sectors of the public have gained the impression that the hearings were based on the inquisition of individuals and not on acquisition of sound information which could be useful in determining whether or not changes are warranted in existing legislation pertaining to the two subjects. Unfortunate, also, is the fact that it was the opinion in many quarters that the committee failed to make clear the fact that two distinct subjects were being studied and let the impression stand that foreign agents and lobbyists are one and the same thing.

The present hearings, which relate to S. 2136, should at least clarify the above point and bring out that the two subjects have no relationship to each other, except when a person might be registered to perform duties under both categories. The latter is not common, but even if it were it would still be advisable that official interpretation of the two designations be issued and further confusion eliminated in the public thinking that the two are synonymous. I think the matter is comparable in importance to that of determining whether or not existing legislation needs changing.

In approaching study of S. 2136, I cannot suppress or reason out the question, "Is there anything wrong with present legislation on the subject which cannot be cured by providing the Department of Justice with sufficient personnel to properly administer it?"

PENDING LEGISLATION COULD DAMAGE OUR FOREIGN POLICY

In spite of this pertinent question, I have attempted to evaluate S. 2136 from the viewpoint as to whether or not its enactment will be to the best interests of the United States. There is a definite element of doubt in the matter for the simple reason that it involves foreign relations to a major degree and can establish precedents whereby other nations can duplicate its terms through retaliation or simply because we have shown the way. Are we prepared to bring forth either duplication or retaliation as being to our best interests? The answer would seem to be an obvious "no."

I can agree that in the case of some nations retaliation would have little meaning, particularly when those nations are communistic by ideology, or are too weak to take a definite stand either for or against communism. Certainly, in the case of all such nations it is not only desirable but a necessity that we have effective controls over the activities of their agents in the United States.

However, we are closely associated in many fields of activities with nations that are "on our team," politically, economically, and militarily, but the terms of S. 2136 make no provisions for distinguishing friend from foe and all are treated as suspect insofar as the activities of their nondiplomatic representatives are concerned. I think it most unfortunate that such suspicion must apply to our friendly allies, which it does by making its representatives fully suspect. Is there to be no trust amongst friendly nations; are we to trust our friends on the battlefields, but not in nondiplomatic exchanges of political and economic views; are we approaching the period when not only paid nondiplomatic representatives of foreign principals, but also opinion formers, through speeches or written words, will be forbidden to mention any political activities of our allies; and we are prying loose the lid of a Pandora's box which will bring foreign retaliations and prohibitions against American citizens presenting American views, even in friendly foreign lands?

I think it unnecessary to detail the countermeasures which other nations can easily adopt in keeping with the retaliatory aspects of the proposed legislation, but by no means do I offer fear of retailiation as a reason why the presently proposed legislation should be made more realistic. Nor do I question that reasonable control should be provided over those who were paid to represent foreign political principals, but I do question the wisdom of trying to kill a flea with a nuclear bomb, or even a 12-gage shotgun.

MAJORITY OF FOREIGN REPRESENTATIVES ARE ABOVE REPROACH

It may be true that there have been representatives of foreign principals who have worked against the best interests of our country in trying to justify their fees, but I am absolutely confident that the vast majority of representatives have gone the other way and unquestionably have placed the interests of the United States completely above those of the foreign principals. Certainly, this is true of those who represent our allies, allies with whom we work on equal terms in mutual efforts to strengthen the common cause. Is every foreign nation, regardless of any alliances which may exist with us, to be treated in full suspicion and immediately judged guilty of some heinous crime because it might try to present its political views through other than diplomatic means?

Or is the "flea" we are trying to eradicate the representative of a more specific type of nation and are the activities of that representative so covert that we must completely kill the activities of all foreign representatives in order to get at him? Does he, for example, get his fee from some country

because he is able to extract sums of money from the United States in the form of foreign aid? If such might be the case would it be impossible to provide practical legislation which would prohibit foreign aid money, or the moneys of such countries, from being paid for this type of representation? Is the little beast the agent of a country not friendly to the United States and holding the objective of overthrowing our form of government?

WOULD LEGISLATION CONTROL THE BAD ONES?

If this should be the case it is doubtful that such a person would ever register under any foreign agent laws and legislation to control him would never find him enrolled. Would legislation really control the bad ones? Most unlikely.

May I refer directly to S. 2136 and quote as follows:

Line 6, page 1: "(b) The term 'foreign principal' includes"—

Line 6, page 2: "(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country."

Line 13, page 2: "(1) any person who acts as an agent, representative, employee, servant or in any other capacity at the order, request or under the direction or control of a foreign principal or of a person any substantial portion of whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in part by a foreign principal, and who directly or through any other person"—

Line 24, page 2: "(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;"

Line 7, page 3: "(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and * * *."

Line 20, page 8: "(e) It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this Act to transmit, convey or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this Act."

REPRESENTATIVES IN UNITED STATES OF PRIVATELY OWNED FOREIGN FIRMS

Before going into explanation as to my reason for quoting these passages from S. 2136, permit me to discuss briefly the matter of representatives within the United States of privately owned foreign businesses, including manufacturing, transportation, financing, extracting natural resources, etc. Many such businesses employ American representatives to keep them informed on political and economic trends within the United States and on such matters in other parts of the world as reflected in the United States. Such representatives have frequent need to consult with Government agencies to obtain information or material that is available to the public in general. Also, they may, on occasion, be requested to consult a Government agency to present matters of information which may pertain to their clients. Normally, all such activities would be related to economic matters and hold no political implications, but it has often been said that the fine line which divides international politics and economics is often most difficult to discern.

Regardless, however, whether the problem might be purely economical or related in some manner to politics, the cold fact remains that every American representative of a foreign business, under the provisions of S. 2136, will have to register as a foreign agent if he is to have contact with any agency of Government. The quotes from S. 2136 clearly state this, but I truly wonder if the significance of the requirement has been thoughtfully considered by those who drafted the proposed changes to the act.

What does this really mean? I can answer that question through personal knowledge. It means that foreign businesses will reject the idea of having

business expenditures open to public knowledge, including that of their competitors, as will be revealed when their representatives register as foreign agents, and will discontinue employing American representatives. Perhaps the sting could be removed to a measurable degree if the details of registration were maintained as classified information and not be open to public scrutiny. Certainly, I believe this point deserves careful consideration.

Is this something over which we should show serious concern? I think it is.

Initially, such representatives will lose their clients and with their fees eliminated certain amounts of money that have been coming into the United States will be cut off. However, these are most minor points and carry insignificant weight in evaluating what the best interests of the United States may be.

What is of major significance is the resentful attitude toward the United States which will inevitably develop among foreign businesses and the conclusion in official government circles of the foreign countries that none of a country's private enterprises should do business within the United States. The loss of imports, which might result, could, of course, work to some advantage to the United States by reducing American amounts of money which go out of our country for payments for those goods. However, will there be any guarantee that American exports will not be reduced in proportion, or are we naive enough to think that trade can be a one-way street alone? As I see it, the only conclusion which can be reached is that through this proposed legislation the United States can reach a status of economic isolation.

But there can be little separation of economics and politics and there is ample evidence to prove that foreign political policies are based as much on economic considerations as they are on those that are purely political in nature. Also, military policies have their foundation in matters which relate both to economics and politics and it is not difficult to envisage that an economic isolation would rapidly lead to similar isolations, politically and militarily. Naturally—and the explanation seems most superfluous—when I refer to politics I speak only of politics as practiced between governments and, certainly, have no reference to partisan politics within our own family. But even at that, strong partisan opinions, pro and con, could easily result with the envisaged isolation of our country as the base on which such partisan politics could develop. Nor is it hard to believe that the exchange of such opinions could have serious effects in our relations with our allies.

PRESIDENT'S LETTER OF SEPTEMBER 1946 WITHDRAWN

The basic Foreign Agents Registration Act of 1938 provided an exemption from registration for a person whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States, although this exemption was removed by the President by letter dated September 30, 1946. The act further provided exemption from registration for a person engaged only in private, nonpolitical, financial, mercantile, or other activities in furtherance of the bona fide trade or commerce of such foreign principal. This latter provision would be changed by the provisions of the amendments presently under consideration in the event any of the activities conducted in the interests of the principal might require contacts with any agency of our Government. I think it of major importance and to the best interests of the United States that the President's letter of September 30, 1946, be withdrawn and the exemption privileges to which it referred be reinstated, and that exemption continue to be provided for the American representatives of foreign private businesses located within the countries that would be covered by the President's action. There are a number of minor points for criticism in existing legislation which are continued in the subject bill. For example, the requirement for labeling all material issued by a registrant when such material may be only a reprint from the Congressional Record. Present labeling requirements tend to establish the registrant as the one who prepared the material. Many points could be given study to establish clarification, etc.

DIPLOMATIC PROTOCOL UNCODIFIED

Now why, one might ask, would a foreign nation—or industries within that nation—wish to be represented in the United States when it already has an embassy and various consulates established here? The answer lies in the word "protocol." There are very definite and prescribed limits as to what constitutes the proper duties and functions of a diplomat.

Diplomatic protocol is an uncodified system of regulations and customs for political interchange. It dictates not only by whom and to whom things are said but how and what is said. It prescribes channels and procedures. The system evolved over a great number of years largely in eras of slower communication and lesser events. Its insufficiency is demonstrated by the recent suggestion that a direct line be placed between the White House and the Kremlin.

Nonetheless, it is and remains the system whereby nations communicate through official representatives. But these persons, enjoying as they do official capacity, can rarely speak or communicate unofficially. Their voice is unmistakably that of the government they represent. Their occasional errors in judgment become the errors of their government and are usually irreparable.

Nondiplomatic representatives are unfettered by protocol. They can represent their client or interest in all segments and levels of society in which they operate. They are not limited to presenting their client's position to their counterpart.

I cannot authoritatively describe the activities of firms similar to mine, but I can endeavor to give you an outline of the services which Julius Klein Public Relations, Inc. offers to its oversea clients. Mainly, these clients are in West Germany.

OUTLINE OF JULIUS KLEIN SERVICES

Actually, I think of my company as a foreign agent in reverse. By that I mean we believe we are doing as much for the United States as for our foreign clients. Our services not only bring dollars into the United States but provide our oversea clients with reliable up-to-the-minute information on American economic and political trends and attitudes.

I would say that most of our activities have been directed at advising our German friends on how best to present their problems to the United States and, in turn, to make them understand similar problems within the United States in regard to matters of commerce, trade, and tourism. Of course, the overall picture of the Soviet Government action in Berlin, as well as overall economic issues, their effect on political issues and the need for alinement with U.S. and NATO policies are matters which are also stressed. For this reason, we maintain our office in Frankfurt, staffed with skilled people. It is one of the biggest expenses we have in connection with our activities.

In addition, we try to arrange a proper reception if and when important German political, civic, or business leaders visit the United States, and vice versa. These visits, as history will reveal, are of the utmost importance in the relationship between countries. That these visits be timely and well prepared and received requires an acute awareness of the political and economic atmosphere in both countries.

May I point out, also, that my company does not lobby for any legislation in Congress. We exert no influence on policymakers but adhere to established policies in foreign affairs, policies which we try to explain to our oversea clients.

Reviewing our experiences over the past few years. I believe we can say that we faithfully served our Nation, the United States, in its dealings with Germany by advocating, for example, investment in the United States and Canada by German industry and similar policies of international friendship. Corollary activities are the promotion of the foreign aid program and the attempt to achieve better understanding in Germany of our balance-of-payments problem.

I would like to explain what I said in a speech in Wiesbaden on April 25 to the group that engaged me to handle their public relations. I made it clear that the internal political affairs of Germany are of no concern to me, but that I am vitally interested in seeing Germany and the United States work harmoniously in established policies—that the interests of my own country, the United States, come first at all times. My German clients understand and respect this. I am sure you will also agree with this position.

I received many letters after my speech, including one from a most distinguished banker who said (translation) :

"* * * You not only impressed me deeply but also all those present with your significant statement that, as far as you are concerned, once you are away from your own country—the United States—your position, irrespective of party affiliation or beliefs, is that of an American for America. This is an expression that we Germans should with all energy take notice of and adhere to."

S. 2136 is of interest to American business and to the several organizations and associations which exist to further the interest of American businesses. For

that reason, I hope that concerned organizations, such as the National Association of Manufacturers, the U.S. Chamber of Commerce, the American Bar Association, the Public Relations Society of America, etc., will make their views known so that the committee can weigh S. 2136 in the knowledge that it has been presented to concerned groups for reactions as to whether or not its enactment will be in the best interests of the United States.

SUGGESTED CHANGES IN PROPOSED AMENDMENTS

In summary, let me present my own reactions and suggestions as to how I think this legislation could be beneficially changed:

Frankly, I do not think S. 2136, as presently written, is to the best interests of the United States. Therefore, I suggest that consideration be given to the following changes:

1. That the President's letter of September 30, 1946, be withdrawn and a list of friendly nations be prepared which would meet the qualifications for exemptions as listed prior to that letter;

2. That with the publication of such a list the requirements be withdrawn for registration by American representatives of those nations and their native privately owned businesses;

3. That registration of American representatives of foreign nations and their private businesses be required only in the case of nations that maintain communistic ideologies, neutral nations, nations that engage in aggressive military or political activities, nations that might lend encouragement to the overthrow of the American form of government or advocate the overthrow of a nation friendly to the United States, nations that are receiving aid from the United States except those deemed by the President as vital to our own economic and military well-being, and those that intentionally avoid discharging their obligations and commitments to the United States, or engage in unlawful seizure, confiscation or expropriation, without proper compensation, of the properties of the American Government or of its citizens;

4. That a more expressive and less offensive term be adopted to replace "foreign agent" (and that the committee by proper action advise the public that there is no relationship between those who register under the provisions of the Foreign Agents Registration Act and those who register with the Houses of Congress as lobbyists).

5. That registration requirements of whatever legislation is enacted establish a classification on all information pertaining to fees, activities; etc., for representatives of privately owned foreign businesses and not make this information open to public scrutiny.

6. That labeling requirements, whether in existing legislation or that to be enacted, exempt from labeling the reprints of public material, excerpts from newspapers, magazines or other publications, releases of speeches; etc., except where the material has been prepared and issued by the registrant himself. (This would eliminate labeling such material as reprints from the Congressional Record, and the daily press.)

Mr. Chairman, I have tried to give you my views as to why changes to the Foreign Agents Registration Act should abolish suspicion and restore dignity and standing to reputable foreign nations, to the private businesses within those nations and to the persons who might be employed to further the views within the United States of those nations and their private enterprises.

I certainly do not think the present bill, S. 2136, will accomplish these purposes. My views are based completely on the conviction that my suggestions, if accepted, will be to the best interests of the United States. I suggest that the committees in both Houses of Congress responsible for legislation concerning foreign relations and commerce activities, as well as the executive branches of our Government, consider what effect the bill will have on the American economy and on American foreign relations if such precise legislation were to be enacted by the Parliaments of England, France, Germany, Switzerland, the Scandinavian, and other friendly countries.

It is my considered opinion that this should be weighed very carefully. As stated previously these countries will have a right to consider their interests, also, and such legislation affects their industrial, economic, private and political relations with the United States.

I sincerely appreciate the opportunity to make my views known to your committee and I hope I have been able to make a contribution to its study.

The CHAIRMAN. The Senate is in session, Mr. Klein. I think the published record speaks for itself, and my statement was based on the record.

It was my understanding that this morning your request was to testify on the bill, but in any case, I will accept your second statement for the record. Thank you very much.

General KLEIN. Thank you very much, Mr. Chairman.

The CHAIRMAN. The committee is adjourned to 10 o'clock tomorrow morning.

(Whereupon, at 12 noon, the committee was recessed, to reconvene at 10 a.m., on Thursday, November 21, 1963.)

FOREIGN AGENTS REGISTRATION ACT AMENDMENTS

THURSDAY, NOVEMBER 21, 1963

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 10:10 a.m., in room 4221, New Senate Office Building, Senator John Sparkman presiding.

Present: Senators Sparkman and Aiken.

Mr. SPARKMAN. Let the committee come to order, please.

We are expecting other Senators later, but I think we should start before they arrive.

Today we are continuing the final series of hearings before the Senate Committee on Foreign Relations in its study of activities of nondiplomatic agents of foreign principals. We conclude today our three days of hearings on S. 2136 introduced by Senator Fulbright and Senator Hickenlooper, which amends the Foreign Agents Registration Act, and corrects some of the apparent abuses disclosed during the course of the committee's investigation.

Our first witness this morning is Mr. Ward B. Stevenson, president of the Public Relations Society of America.

Mr. Stevenson, we welcome you here this morning. I understand you have a prepared statement. Actually I have a copy of your statement which will be printed in the hearings in its entirety. You may read it, summarize it, or discuss it in any way you see fit.

For the benefit of the record, it would be appreciated if you would identify the gentleman who accompanies you.

STATEMENT OF WARD B. STEVENSON, PRESIDENT, PUBLIC RELATIONS SOCIETY OF AMERICA, INC., ACCOMPANIED BY FRANCIS K. DECKER, COUNSEL

Mr. STEVENSON. Thank you, Mr. Sparkman.

I am Ward Stevenson of New York City, president of the Public Relations Society of America, and vice president of the public relations firm of Dudley-Anderson-Yutzy of New York City.

I am accompanied by Mr. Francis K. Decker, who is the legal counsel of the Public Relations Society of America.

I do have a prepared statement which is actually relatively brief, and I will go through it quickly, with your permission, Mr. Chairman.

Senator SPARKMAN. Very good.

DESCRIPTION OF PUBLIC RELATIONS SOCIETY

Mr. STEVENSON. The Public Relations Society of America was formed in 1948 and now has 4,475 individual members in the United

States and 125 members in 33 foreign countries. Within the United States, we have 52 chapters located in the major metropolitan areas of the country. This society is a professional association whose members are accepted only on individual merits and qualifications. We have no firm, corporate, or institutional memberships.

In order to qualify for membership in the society a public relations practitioner must have a reputation for ethical conduct and integrity, shall be free of affiliation with any subversive organization, and must have devoted a major portion of his time for a period of not less than 5 years to the practice of public relations at an executive level. He must be a recognized public relations executive at the time of his admission to the society and have administrative responsibility for public relations activities in his own organization. Teachers of public relations are eligible, as are public relations people who have only 1 year's administrative or executive experience. The latter are accepted on an associate level until they meet the 5-year requirements.

Approximately 60 percent of our members are executives in charge of public relations for business and industrial firms. About 1,200 of our members are public relations counsel representing clients on a fee basis. The remainder are public relations officers for institutions, health and welfare agencies, government agencies, hospitals, colleges, and universities.

SUPPORT OF BILL WITH MISGIVINGS

With respect to Senate bill 2136 which will amend the Foreign Agent Registration Act of 1938 as amended, in general, we would favor and support the proposed changes largely because they serve to clarify and strengthen the present law.

We do share some of the misgivings concerning the possible effect of these amendments that were expressed to the committee yesterday by Mr. Dean of Sullivan & Cromwell, particularly those which, it seems to us, might involve the requirement to register as a foreign agent even though one was simply representing a U.S. corporation with foreign subsidiaries.

We share Mr. Dean's view that this could require almost everybody to register, and thereby dilute the whole effect of the Foreign Agents Registration Act.

Now, we note particularly that section 3(d) of the present law would be amended so as to specifically exclude a public relations practitioner engaged in the furtherance of bona fide trade or commerce. We think this is wise. We think this might avoid some of the difficulty Mr. Dean was talking about yesterday, I am sure. We also note with a great deal of approval that S. 2136 would add to section 7 of the present law a paragraph (a) which coincides with paragraph 12 of our code of standards of professional practice.

But, in summary, our members, with the qualifications that I expressed with regard to what Mr. Dean said yesterday, our members would find nothing unjust or unworkable in the amendments you propose.

EFFORTS MADE TO POLICE ETHICAL STANDARDS

While the Foreign Agents Registration Act is important to the Nation's interests they do not believe that it is possible to legislate the responsible and proficient practice of public relations performed

on behalf of either foreign or domestic principals. We who make our living in the public relations business believe we have an obligation, therefore, to do an effective job of regulation—not just in the public interest, but in our own. We are the ones who suffer first when public relations work is done in an inept or irresponsible way. I will describe briefly how we are endeavoring to develop, strengthen, and police the standards by which public relations work is done.

Each member must subscribe and adhere to our society's specific 17-point code of professional standards and there are judicial procedures for enforcement of the code. The original code was adopted in 1954 and revised in 1959. The code is available in printed form to anyone who requests a copy. I have copies with me if the committee staff would like to have them.

NINE-MAN GRIEVANCE BOARD

We have a grievance board of nine men who are charged with the responsibility of investigating any situation where a member of the society may have been guilty of violating any one of the code's 17 points. As a matter of fact, this grievance board is reviewing the testimony heard by your committee to determine whether there is any evidence of code violations.

This board has also reviewed the recent SEC report with the same purpose in mind. If the grievance board believes violations may have occurred, it presents its findings to a judicial panel of the society. The judicial panel holds hearings on the complaint after which it renders an opinion to the society's board of directors. The board of directors makes the final decision on what action should be taken. It may dismiss the complaint if violation is not proved. If violation is proved, the board may censure, suspend, or expel the member depending on the type and degree of violation.

Because we are so concerned about increasing the competence and standards of public relations performance, we are, this year, launching an accreditation program whereby a public relations man will have to meet stringent requirements of experience and professional conduct and, in addition, pass both written and oral examinations before receiving accredited status from the society.

DOES PUBLIC RELATIONS WORK HAVE SINISTER IMPLICATION?

Despite our determination to enhance our standards of responsibility and proficiency, we who work in public relations are disturbed over implications heard in many quarters from time to time that there is something sinister about public relations work. We who work in public relations are the last ones to believe that the opinions of free men can be manipulated. Free exchange of opinions, open discussions of ideas and expressions of diverse points of view all constitute the very fabric of a democratic society.

Those who believe that public relations work involved the manipulation of men's minds for sinister or unwholesome purposes simply don't know any thing about public relations, and also apparently lack respect for the dignity of the individual in a free society.

Public relations activity, and the use of public relations techniques, is one of the characteristics of a free, democratic society. Put more succinctly, in any society where there is free speech and where public

opinion is the motive power for progress, there will be public relations work to do.

Our concern and purpose in the Public Relations Society of America is to be sure it is done properly and effectively. Thank you, Mr. Chairman.

ONLY ORGANIZATION OF ITS TYPE IN THE UNITED STATES

Senator SPARKMAN. Thank you very much, Mr. Stevenson.

Is there any other organization in the country parallel to yours, similar to yours, or are you the only such organization?

Mr. STEVENSON. We are the only national public relations organization. There are some others that are specialized. The railroad public relations people and some of the financial public relations people. There was another national organization up until about 2 years ago and we merged with them, so we are the only ones left now.

DISCIPLINARY PROCEEDINGS AGAINST VIOLATORS

Senator SPARKMAN. In the bylaws of your association, article 13 provides for disciplinary proceedings which may be brought by your organization against members for the violation of your code of professional standards. You discuss that some in your paper. I wonder if any proceedings under this article have resulted from disclosures made during the course of the committee's hearings. Or did you intend by the statement contained in your paper that the grievance board is reviewing the hearings at the present time and has not yet taken any action?

Mr. STEVENSON. It has proceeded beyond that stage, Mr. Sparkman. The grievance board is now reviewing the testimony, has been reviewing the testimony, ever since you began to gather the testimony.

Now, beyond that in one case the grievance board decided that there had been a violation, based on the testimony before this committee, and presented it to a judicial panel, I should say we have several panels which, that are regional instead of one national, therefore, a member is heard in front of a panel of persons in his own region. So the grievance board, having decided that there had been a violation in at least one case, instituted disciplinary action against the member, and that was heard before a panel and we are awaiting the decision of the panel in that case.

Senator SPARKMAN. I think you mentioned in your paper some of the disciplinary actions that may be taken. Would you mind restating them, the sanctions for violation of the code of professional ethics?

Mr. STEVENSON. May I have the question again? What action have we taken in the past?

Senator SPARKMAN. I say what are the actions that may be taken under your standards?

Mr. STEVENSON. I see.

We have three alternatives, Mr. Sparkman. We may censure, we may suspend, or we may expel.

Senator SPARKMAN. You mentioned all three of those in your paper.

Mr. STEVENSON. That is right.

Senator SPARKMAN. Does that constitute the punishment now? In other words, you either would find the person not guilty or, if guilty, then you could take any one of those three actions?

Mr. STEVENSON. That is correct, and we will soon now be able to do a fourth.

Senator SPARKMAN. What is that?

Mr. STEVENSON. Which would be with our accreditation program. If an accredited member of the society is found guilty of violating the code, we may remove his accreditation. That will give us a fourth remedy.

SOCIETY MEMBERSHIP PREREQUISITE TO PRACTICE

Senator SPARKMAN. Is membership in your organizaiton a legal prerequisite to the practice of the public relations profession in any State?

Mr. STEVENSON. No, sir.

Senator SPARKMAN. I know in some associations, as the legal association, or the medical association, many States require membership in order to carry on in the profession. You do not?

Mr. STEVENSON. No, sir.

REPRESENTATION OF CONFLICTING INTERESTS

Senator SPARKMAN. Rule 4 of your code provides, and I quote:

A member shall not represent conflicting or competing interests without the express consent of those concerned, given after a full disclosure of the facts.

I wonder how you interpret this provision for members of your organization who specialize in representing political interests of foreign countries? For example, would a member who undertook to represent South Africa and Nigeria be in conflict with this rule if he failed to disclose to one of the parties his representation of the other?

Mr. STEVENSON. With the qualification that the president of the society does not really interpret the code, the judicial panels do that, with the understanding that I am now speaking really quite unofficially about the code. I would say, Mr. Sparkman, in the example you give, yes, there would be a conflict of interest there between Nigeria and South Africa.

Senator SPARKMAN. I used those two instances because they seem to be at opposite poles. But suppose there were two friendly countries. If there had been no disclosure to either one of the countries that he represented the other, would that change it?

Mr. STEVENSON. Well, it would, of course, depend on the circumstances. But certainly where a member of the society represents foreign principals there is the possibility of a conflict of interest, and the responsibility is on the member to make very sure that where a conflict of interest arises he notify both of his principals to get their approval to proceed, and if they do not approve, then he has got to withdraw from one or the other of the assignments.

Senator SPARKMAN. Yes.

CONTINGENT FEES

Section 12 of your code provides, and I again quote:

A member shall not propose to a prospective client or employer that his fee or other compensation be contingent on the achievement of certain results; nor shall he enter into any fee arrangement to the same effect.

As you know, we are contemplating a similar provision in the proposed bill that we have under consideration with respect to persons engaging in political activities on behalf of foreign clients. I wonder what you deem to be the reasons for having such a provision.

Mr. STEVENSON. The use of contingent fees in our business, Mr. Sparkman, leads to abuses, such abuses, for example, as a strong temptation to attempt to corrupt the channels of communication, such abuses as misrepresenting results to the client.

EFFECT ON CHANNELS OF INFORMATION

Senator SPARKMAN. I wonder if I may interrupt to ask just what you mean by channels of information, corrupt channels of information.

Mr. STEVENSON. Channels of public communication.

Usually when you have a contingent fee a public relations man has one way or another promised the client that "you do not have to pay me unless I can produce a certain amount of time or space on something involving the channels of public communication," and having done that, having made that kind of a contingent arrangement, then there is too strong a temptation, we think, on the part of the practitioner to do a lot of things—you cannot do it too well in this country, but in other countries you can do things to corrupt the channels of communication.

There is a temptation, if you will, in one way or other to try to bribe the people who are really managing public communication.

Another reason for this provision in our code is that as a practical matter a public relations man cannot undertake to guarantee results. All he can really do, if he is honest in this business, is to promise to try to produce results. He cannot guarantee them.

Senator SPARKMAN. Did you keep up with the hearings with reference to the sugar legislation?

Mr. STEVENSON. No, sir, I did not. I am aware of them.

Senator SPARKMAN. Where there were a good many instances of contingencies.

I wonder if, under your definition of corrupting channels of public communication, what your attitude would be toward using channels of newspapers through stories that had been written in a slanted way, but published as news without any labeling. Would that be a corruption of public communication or a tendency to do so?

Another instance would be where newspaper editors were taken on a luxurious outing or trip to some foreign country and given slanted stories, with the thought that when they return they would write the stories pleasing to the country represented and visited.

Would that fall within your description of corrupting channels of public communication?

Mr. STEVENSON. I think I should say, first, in response to that, that this whole business of corruption depends very much on the editor and I know many editors who could not be corrupted under any circumstances no matter what kind of trip they were taken on.

Senator SPARKMAN. Of course, I realize the term "corrupt" is a pretty strong term, and yet under the definition that you gave for corrupting public communication, I thought that it had a rather broad interpretation.

Mr. STEVENSON. Yes.

CIRCUMSTANCES OF CASE WEIGHED

Let me try to be more responsive to what I think you are getting at here.

We, of course, have another provision in the code that says that a member shall not engage in any practice which tends to corrupt the integrity of the chanels of public communication. Therefore, we will decide such cases as you are talking about entirely on the evidence that we gather at our hearings.

It is possible, yes, sir, that taking newspapermen overseas, on some junket for no purpose other than to persuade them to write some story could be a violation.

On the other hand, taking newspapermen overseas and allowing them to come back and write whatever they please and write it as they see it, might not be. It depends entirely on the circumstances of the case, and we have to deal with each of these individually.

I will say that it is something that concerns us. Now, as to whether identifying a principal whom you represent, when you present material to a newspaperman or to anyone else engaged in public communication, as far as that goes, we think we have an obligation to do that. We must be prepared, to identify our principal when we are dealing with anybody, in dealing with public information. In fact, we have so amended our code now as to say so.

However, once we have identified our principal and presented this material to the editor or whoever it may be, then he takes the responsibility for it from that time on. He decides whether or not to use it. He decides in what form to use it, and he decides where and when to use it.

ENFORCEMENT OF CONTINGENT FEE PROVISION

Senator SPARKMAN. On this question of contingent fees which we have been discussing, has your association, to your knowledge, ever enforced that provision?

Mr. STEVENSON. Which provision is this, Senator?

Senator SPARKMAN. A member shall not propose to a prospective client or employer that his fee or other compensation be contingent on the achievement of certain results, nor shall he enter into any fee arrangement to the same effect.

Mr. STEVENSON. Yes, sir.

Senator SPARKMAN. Has there ever been any action to enforce that?

Mr. STEVENSON. Yes, sir; there is a case now pending that involves that particular rule.

Senator SPARKMAN. Do you think it will be well for us to include in the bill a provision to the same effect that you have in your code of ethics?

Mr. STEVENSON. We would have no objection to it, and we think it would be well for you to do it. You have such a provision, I believe, in the bill.

Senator SPARKMAN. In the bill, yes. I stated we had a provision in the bill, but we wanted to know what you thought about our retaining it in the bill.

Mr. STEVENSON. We would go along with it.

UNDISCLOSED SOURCES AND INTERESTS

Senator SPARKMAN. Section 8 of your code of standards provides, and I quote:

> A member shall not make use of any organization purporting to serve some announced cause but actually serving an undisclosed special or private interest of a member or his client or his employer.

A situation which might be covered by this section was brought out in one of the hearings of this committee. A group purporting to be composed of Americans of foreign descent, interested in this Government's attitude toward their ancestors' country was, to all appearances set up by a public relations firm employed by the foreign country.

I wonder whether this would be a situation covered by section 8 of your code, assuming these to be the facts of the matter?

Mr. STEVENSON. Our grievance board now has under active consideration the conduct of a public relations firm or a member of the society, based on the testimony that was elicited before this committee. We are going to find out, in other words, Mr. Sparkman.

Senator SPARKMAN. In other words, you are going into it?

Mr. STEVENSON. Yes.

PRIVATE NONPOLITICAL PUBLIC RELATIONS ACTIVITY

Senator SPARKMAN. Would you give us an idea of what you consider to be a public relations activity that was private, nonpolitical, and in the furtherance of bona fide trade and commerce? I believe that is the statement you have used.

Mr. STEVENSON. Yes, sir. I would say public relations activities carried on for a foreign principal, the purpose of which is to help him develop his market for his products in the United States perhaps a market for his securities in the United States.

Certainly when the foreign principal is a private business firm, not a government, not a firm supported by a foreign government, certainly it would be true in that case.

I think even under certain circumstances a promotion of tourism would come under that provision.

You see, we are getting, Mr. Sparkman, to the day when there will be multinational companies, and there are going to be business firms that will not really have any nationality. They will be owned by persons of many nationalities. They will be managed by persons of many nationalities and, indeed, they will serve many markets. We are beginning to see it already.

When the activities of such a firm are nonpolitical and are entirely commercial, dealing with trade and commerce and the sale of its goods and services, then it seems to us that the public relations activities on behalf of such a firm carried on within a number of countries ought to be recognized as part of bona fide trade and commerce.

Senator SPARKMAN. Suppose they were dealing with tariff matters. Would that fall within the same category?

Mr. STEVENSON. I would believe that once you get into tariff then you are affecting legislation, and I would say that you would then be required to register. But I am not a lawyer. I would ask for legal advice at that point.

Senator SPARKMAN. All right. Thank you, Mr. Stevenson, both of you. We appreciate your testimony.

Did you have anything to add, Counsel?

Mr. DECKER. Mr. Sparkman, I think Mr. Stevenson has covered the points. I think we are glad that you pointed out certain provisions of our code as having our attention in connection with enforcement procedures.

Senator SPARKMAN. We certainly appreciate your testimony. I think it is very helpful. Thank you very much.

Mr. STEVENSON. Thank you very much.

Senator SPARKMAN. Our next witness will be Mr. Rodolphe J. A. de Seife. Will you come around, please.

You have a prepared statement?

Mr. DE SEIFE. Yes; I do.

Senator SPARKMAN. I have a copy of it. You handle it as you see fit, either read it or summarize it or discuss it. It will be printed in the record in any event.

Mr. DE SEIFE. I think I would rather discuss it, Mr. Sparkman, with your permission.

Senator SPARKMAN. Very well.

STATEMENT OF RODOLPHE J. A. DE SEIFE, ATTORNEY AT LAW

Mr. DE SEIFE. I would like to thank the committee, first of all, for the opportunity to address it.

My name is Rodolphe de Seife. I am a partner in the law firm of Hart, Moss & Tavenner here in Washington, D.C., and I have an office in Paris, France.

PRIVATE FOREIGN PRINCIPALS REPRESENTED

As I stated in my statement, Mr. Sparkman, we have never represented foreign clients who, in any way, were connected with government. I have represented—I am representing—foreign clients in the United States primarily in court cases, but also in some Government board proceedings, quasi-judicial proceedings. We are representing several American firms abroad. Some of these firms are the so-called multinational firms that Mr. Stevenson was just mentioning. They are owned, in general, 60 percent by American principals, 40 percent by foreign principals.

What I am worried about with this proposed bill S. 2136, which, incidentally, I would like to state for the record I do endorse—I mean I endorse the objectives of the bill—certainly is the fact that the language now is going to be so broad if it is not carefully analyzed and maybe somewhat redrafted, it will be so broad that it will include the bona fide practice of law, representing foreign private principals as opposed to principals who may be government owned or sponsored.

I tried yesterday to elicit some information from the Department of Justice on their stand and, typically, I got no satisfaction. This is why I am here this morning, Mr. Sparkman, to ascertain that this legislation did not intend to cover what I call the bona fide practice of law before courts and administrative boards and agencies, because if this were the case, in many of these cases that we handle, the financial remuneration is, frankly, not sufficient to warrant the bother

of having to register, besides which my partners in my firm and I do not relish the connotation of being known—and this has nothing to do with the substantive part of it—but we just do not like the idea of being called foreign agents.

As a matter of fact, I have refused the opportunity of representing foreign government-connected principals on that basis, Mr. Sparkman, and I intend to continue to do so.

STIGMA OF "FOREIGN AGENT" LABEL

Senator SPARKMAN. May I interrupt right there; I am a little curious why you would not like to be referred to as a foreign agent or certainly as one representing a foreign government. Some of the outstanding lawyers in this country have represented foreign governments and, apparently, never resented the fact being known that they did represent them.

Mr. Thomas Dewey, who ran for President twice, so far as I know has never objected to it.

Former Secretary of State Dean Acheson, and the present Under Secretary of State George Ball, are among innumerable very fine lawyers of law firms throughout the country who have not felt any stigma attached to it. I just wonder why your reaction is as it is.

Mr. DE SEIFE. Well, Mr. Sparkman, I know, as a matter of fact, personally several such very prominent citizens, and a couple of them I can call friends.

What I really said is that in our particular practice, and with the type of clients that we represent, some of them might object to our being known as foreign agents. I personally have no objection to being called a foreign agent if what I am doing is right insofar as my conscience is concerned.

Does that answer the question?

Senator SPARKMAN. Yes; it does. I was just a little curious.

Mr. DE SEIFE. I would like to add this, however: If I were to be engaged in anything that is not what I considered to be the practice of law then, I think, it is perfectly proper to register. I am just trying to confine my comments to the practice of law as I see it.

BONA FIDE PRACTICE OF LAW

Senator SPARKMAN. At this point I wonder if I might ask you to elaborate somewhat on the phrase "bona fide practice of law." May I say that we have had the same suggestion from Mr. Arthur Dean, as you know, and I just wonder if you would elaborate some on your interpretation of the term "the bona fide practice of law."

Mr. DE SEIFE. I am sorry that I missed Mr. Dean's testimony. I respect him very greatly and probably, if I had known about it, I would have associated myself with his comments.

Senator SPARKMAN. Mr. Dean's firm, Sullivan & Cromwell, of which the late Mr. John Foster Dulles was a partner, has had extensive foreign practice, including, I believe, the representation of governments.

Mr. DE SEIFE. I want to make sure, Mr. Sparkman, that there is no question, I am not casting aspersions on them. I say we are representing some types of American clients who might object to the term.

Senator SPARKMAN. Yes; I understand.

Mr. DE SEIFE. And since they are good clients—if we get better clients, I suppose we might change some of our views—but, of course, we have not gotten any better clients than the ones we have right now.

So far as the practice of law is concerned there is, to me, a distinction between trying to influence legislation or trying to promote legislation and simply representing the interests of a foreign principal, primarily a private individual or corporation, before a court or in a quasi-judicial proceeding before a board or a Government agency, let us say a foreign contractor before the Armed Services Board of Contract Appeals, for instance, something like that.

It is a quasi-judicial proceeding.

We present facts, we talk about interpretation of the law, and we win the case or we lose it, it makes no difference. I mean we do not take anybody out for tea or we do not take him out for free plane rides or anything else. I mean, this is just the normal practice of law.

I believe, Mr. Sparkman, that you are a lawyer yourself, and I think as lawyers we know what the practice of law is concerned with.

We also know what is meant by political consulting in this country or what is meant by public relations. I mean those things are not quite the same. Unfortunately, a lot of lawyers call themselves lawyers and they are not lawyers. They are primarily propagandists.

REPRESENTATION OF PRIVATE FOREIGN CLIENTS EXEMPTED

With respect to the bill, I would like to suggest that some language be added to section 3 of S. 2136, which is an amendment to the present 22 United States Code 613(d) to include the word "legal" after "public relations."

Senator SPARKMAN. That is on page 7 of the bill.

Mr. DE SEIFE. Yes, sir; and then to add a new paragraph (q). I repeat again these are just suggestions. I am not a draftsman of any note, but I would like to see some language in the bill which would state that the bona fide practice of law by American lawyers before courts or agencies or departments representing private foreign principals is not covered, is exempt under this bill.

Now, I have two more suggestions.

Senator SPARKMAN. You say representing foreign clients?

Mr. DE SEIFE. Representing private foreign clients. My secretary missed the word "private."

Senator SPARKMAN. I understand. You mean representing private clients before any court, agency, or department of Government of the United States.

Mr. DE SEIFE. That is right.

Senator SPARKMAN. You would limit your exception to that?

Mr. DE SEIFE. Yes.

MIXED CORPORATIONS

I might add that insofar as private foreign clients are concerned, I personally feel that the so-called mixed corporation—for instance, in the French law a mixed corporation is a corporation in which the Government has a predominant share of the stock; sometimes it does not have a predominant share of the stock; those corporations under French law are strictly private corporations; they are run on a businesslike basis and have no attributes of sovereignty.

When they go abroad they are liable to be sued and to pay damages, and what-have-you, just like any other corporations and, as a general rule, they are not engaged in political activity. I say as a general rule because there are some countries that use these corporations, particularly if they have a state monopoly, for propaganda purposes obviously. But I am thinking of, let us say, the Western countries that have these corporations. They are not involved in any kind of political activities. Those I would include.

However, there is room for argument there if we start making exceptions whether this corporation belongs to an Iron Curtain country or not an Iron Curtain country, I think it is too complicated, so I think you might as well throw it in under the definition of foreign principals, I suppose, as defined in the bill.

What I would like to see, however, in that connection is a system of negative clearance with the Department of Justice. I do not know whether this has been suggested before or not, but I do believe that when you are in situations where you are not certain whether you should register or not—let us take the example of a mixed corporation; you represent a corporation, let us say, that is owned 30 percent by the Government. There is absolutely no political connotation whatsoever, no question about it. It seems to me you ought to be able to present this to the Department of Justice, and they ought to be able to come up with some kind of an answer within a certain number of days. This is a much cheaper procedure than to wait until you have a case in controversy where you are facing a jail sentence and a fine and costs.

POWER OF INJUNCTION NECESSARY

Also in that connection I might say that I personally feel that the Department probably ought to have, the Department of Justice ought to have, the power of injunction that it is asking for. If they have this power of injunction I would like to see an administrative proceeding under the Administrative Procedure Act, not something special but under the Administrative Procedure Act, which would look into the merits of the Department of Justice contention that you should register, and also I would like to see waived criminal penalties altogether where there are unintentional violations or where violations are made for the reason of testing a certain situation.

Senator SPARKMAN. By the way, I believe our committee has been assured in the course of these hearings that there is a method within the Department of Justice whereby a person may have the kind of prior consultation and decision that you mention, and so far as the injunctive process is concerned, that has been suggested by the Department of Justice representative.

You say there ought to be some way by which the full matter could be gone into. If an application for an injunction is filed before the court and it is carried to a hearing on the question of a permanent injunction, would that not be an opportunity to go into the matter fully?

Mr. DE SEIFE. Well, it might be, Mr. Sparkman.

Senator SPARKMAN. Is it not a matter of right to have a hearing for a permanent injunction?

Mr. DE SEIFE. I am not sure I understand the question, Mr. Sparkman.

Senator SPARKMAN. You say it might be. It seems to me that it would be a matter of right, for instance, if the Department of Justice filed a petition for an injunction against you. The court might grant the preliminary injunction, and would set it down for a hearing on the question of making the injunction permanent.

Now, if I understand the law correctly, you have, as a matter of right, then to present your case to show why a permanent injunction should not be granted.

ADVANTAGES OF AN ADMINISTRATIVE BOARD

Mr. DE SEIFE. Yes, you do. However, personally—maybe it is because I am primarily an administrative lawyer—I like the idea of an administrative board where you could be assured of some expeditious handling of the matter.

Senator SPARKMAN. I thought—as a matter of fact the suggestions came up while the Department of Justice witness was on the stand testifying as to whether or not it should be part of the administrative procedure—that the individual's rights were better protected under an injunctive process in court rather than under an administrative procedure that might be set up.

Mr. DE SEIFE. Well, Mr. Sparkman, there is some division of opinion on that. It depends on which side of the fence you are. If you represent the Government or if you represent a private individual, it depends on which side you are. My experience, unfortunately, has been that when you ask for an injunction against a Government official, the chance of getting it is nil, no matter how right you are, on a preliminary basis, at least; and when the situation is reversed, the Government does get the injunction and then when you have to get to argue, by the time you get to argue, the permanent injunction, several months may have gone by, and if you had a client, you do not have a client any more, let us face it. This is the problem.

So I do think that an administrative-type hearing might help matters. On the contrary, I believe in court reviews, very much so. But I do think that if you have someone in authority who can handle the matter—one of the problems, Mr. Sparkman, in all these Government agencies is that you never seem to be getting any responsible individual who can make decisions, and I speak from experience.

I have handled a security case where we tried to go up all the way to one of the Secretary's offices, and all the way up to the Secretary's office nobody could give you any kind of positive answer.

PLACEMENT OF ADMINISTRATIVE POWER

Senator SPARKMAN. Where would you recommend this administrative power be lodged?

Mr. DE SEIFE. Well, of course, Mr. Sparkman, this is really a much bigger question than I anticipated because I have my own philosophy under the Administrative Procedure Act.

Senator SPARKMAN. It would almost have to be under the Department of Justice.

Mr. DE SEIFE. Yes, it would almost have to be under the present system; yes, it would have to be.

I would suggest a one-man, you know, one-examiner type board, something like that, where the person is not a mere employee taking orders from the boss at the top. This is what I am worried about, because too often policies change with the man, depending on the man who occupies the office, if something you do is legal or illegal, and it should not be that way.

Senator SPARKMAN. If you think well of it, I am sure the committee would be glad to receive a statement from you elaborating on that point with reference to administrative procedure.

Mr. DE SEIFE. Mr. Sparkman, I will be very happy to submit one. I would ask that Mr. Edward de Grazia prepare it for this committee, because I am leaving for Europe next week on a private case.

Senator SPARKMAN. That would be very good. We would be very glad to receive it in order to get your suggestions. They might be helpful to us when we come to this question of considering injunctive relief or a cease and desist.

(The statement referred to was discussed and had not been submitted at the time of printing.)

Mr. DE SEIFE. Thank you very much, Mr. Sparkman.

Are there any other questions of me?

Senator SPARKMAN. Senator Aiken, do you have any questions of Mr. de Seife?

Senator AIKEN. No.

Senator SPARKMAN. Thank you very much. We appreciate your statement.

Mr. DE SEIFE. Thank you.

(The prepared statement of Mr. de Seife follows:)

STATEMENT BY RODOLPHE J. A. DE SEIFE, OF WASHINGTON, D.C.

My name is Rodolphe J. A. de Seife, and I reside in Washington, D.C. I am a member of the bar of the District of Columbia since 1955, and the Supreme Court of the United States of America. Since May of 1957, I have been engaged in the private practice of law, having spent 2 years prior to that with the Department of Justice as a recruit under the Attorney General's honor law graduates program.

I have an office at 301 Bowen Building, 815 15th Street NW., Washington, D.C., and also maintain offices at 261 Rue Saint-Honore, Paris 1, France, as an American lawyer. My knowledge of foreign legal systems and foreign languages has been the source of some foreign legal business in the United States, as well as American legal business abroad.

I should add parenthetically that I am vice chairman of the Committee on Foreign Affairs, Section of Administrative Law of the American Bar Association, but since this committee has not had an opportunity to analyze or discuss S. 2136, I am here representing myself only.

May I start by stating that I have read with great interest the extremely well drafted proposed amendments to the Foreign Agents Registration Act of 1938, as amended, contained in S. 2136. I find myself in full agreement with the objective of this bill; namely, that the representation of foreign governments or government-connected foreign principals in the fields of public relations, political counseling, etc., be subjected to closer regulation and scrutiny. I therefore favor wholeheartedly the aims of the bill.

SUGGESTED CLARIFICATION OF PROPOSED AMENDMENTS

However, I am disturbed at the possibility that the broad language of the amendments could be, somehow, interpreted to include the bona fide practice of law.

I, for one, have some private clients who happen to be foreign citizens residing abroad. As a matter of fact, to date, I have represented only private clients. In all my years of private practice, I have only practiced law and I have never

engaged in any lobbying activities for anyone. It seems to me that the proposed bill which is designed to tighten the present law requiring the registration of foreign propagandists should not, even by the most far reaching and remote interpretation, cover the situation where on American lawyer represents in an American court of justice, the interests of a foreign partner in an American-based partnership; nor should this bill be designed to include a lawyer, practicing as such, before an administrative agency in a quasi-judicial proceeding representing foreign clients located abroad.

I would also suggest that the act not apply insofar as foreign principals are concerned who are Government owned or controlled corporations, but however, strictly commercial in character. These corporations do not have any attributes of sovereignty and a lawyer representing them in a purely professional capacity should not have to register as a foreign agent. But, there is some leeway for discussion in that particular area.

What I definitely do believe, is absolutely essential is that S. 2136 specifically exclude bona fide practice of law before courts or administrative agencies in this country. There is no justification for an all-encompassing language. While I am certain that the legislature does not intend to cover the bona fide practice of law, it would be a mistake to wait for a court to determine what the legislative intent was. It is much easier, I suggest, to take care of this possible problem here and now by some appropriate drafting change.

I therefore respectfully suggest that the proposed section 3 of S. 2136 (page 7 of the bill), include the word "legal" which should be added to "financial, mercantile, or public relations" (22 U.S.C. 613(d)). Consideration might also be given to adding to the proposed paragraphs "o" and "p" to section 1, subsection d, a new paragraph (q) with the following language, or some similar wording:

"Nothing in this paragraph or in this Act shall be meant to include within the purview of this Act, the bona fide practice of law by American lawyers representing private foreign clients before any Court, Agency or Department of the Government of the United States."

It is a known fact that there are many lawyers who do not practice law but primarily engage in lobbying activities for their clients or act as "political consultants," but it seems to me that the bona fide practice of law is quite easily set apart form the type of activities described herein.

This suggested clarification of the proposed amendments in S. 2136 would foreclose the possibility that American lawyers solely engaged in the private practice of law might have to register as foreign agents every time they are asked to represent some foreign widow or orphan, or foreign corporation before a court or in quasi-judicial proceedings before an agency or department of the Government. Such an interpretation would make the law practically unenforcible since I dare say that there is not one lawyer out of two who, at least once in his lifetime, does not have a foreign client in this age of ever-increasing facilities of communications and narrowing of the gaps between nations. Furthermore it would leave absolute discretion in the Attorney General or, worse, his subordinates to use or misuse this law which, surely, is not an intended result.

Finally, I would suggest that if the Department of Justice is given the power to enjoin the activities of any person it holds to be a foreign agent, provision be made for an administrative hearing to determine the correctness of the Department's action and that there be no criminal penalty attached to an unintended violation, or where there is a genuine issue of fact, whether the person should register or not.

Senator SPARKMAN. Mr. Roger Fisher, professor of law at Harvard. Mr. Fisher, we are glad to have you with us.

STATEMENT OF ROGER FISHER, PROFESSOR OF LAW, HARVARD UNIVERSITY

Mr. FISHER. Thank you. I appreciate being here.

Senator SPARKMAN. Do you have a prepared paper?

Mr. FISHER. I am afraid I do not.

Senator SPARKMAN. That is all right.

Mr. FISHER. The bill which is up before you proposes changing the Foreign Agents Registration Act. As a lawyer who is currently advis-

ing the Government of Saudi Arabia on a legal problem and who, in the past, has advised the Governments of Pakistan and Iran on problems, I would like to call some points to your attention.

Senator SPARKMAN. By the way, you are registered under the Registration Act?

Mr. FISHER. I am registered as a foreign agent. I do not mind being called a foreign agent. I do object, however, to the statutory definitions which makes me a "public relations counsel" engaged in "political activity."

Senator SPARKMAN. Your connection is as a lawyer, is it not?

WITNESS' FOREIGN CLIENTS

Mr. FISHER. I am currently advising on a problem which has nothing to do with the United States itself. We are working, hopefully, for an amicable settlement between Kuwait and Saudi Arabia of a boundary in the Persian Gulf. They have agreed to arbitrate; before they do they want advice as to how the law would apply, and they referred to me, as an international lawyer, to give them an opinion as to how the line dividing the Continental Shelf would run out.

I have no task of influencing any American in any capacity in this country at all. I may say that in the past, working with Pakistan, again it was a dispute between Pakistan and India. At the time I was with Covington & Burling here in Washington.

Again a foreign international law question was involved in respect to the question of advising the Government of Iran in a dispute with Afghanistan. In none of these cases has there been any attempt to influence any action, private or public, in the United States at all. It is as a lawyer on an international law question.

Now, it seems to me to be in the interests of the United States that foreign governments which are so inclined settle their disputes legally, under law; and if they feel like getting advice, that the obtaining of advice from an American international lawyer be encouraged. That is, we are trying not only to promote international law but to get full understanding of our perceptions of it, our ways of treating problems.

SCOPE OF PRESENT REGULATIONS

Now, the present statute and regulations are so broadly drafted that there are substantial hurdles placed in front of giving advice on small matters of this kind. Not only need I file a full registration statement, but when I ask a student, a graduate student, to do a weekend's research on a precedent of a Norwegian-Swedish arbitration, I discover that apparently he himself must register as a foreign agent. It seems that I am a foreign principal under the statute, and if he is going to do 8 hours' work for me on legal research he must do 12 hours' work filing a complete registration statement as a foreign agent himself.

Senator SPARKMAN. Why don't you have him do it as a class assignment? That would get around it.

Mr. FISHER. Well, on weekends we ought to be able to pay them a couple of dollars an hour for what they are doing.

The term "political propaganda" in the statute is so defined that if I give a memorandum of advice to an officer of my client in this country, I apparently must file that memorandum with the Library

of Congress and the Department of Justice. That is, if the term "political propaganda" includes "any * * * written * * * communication * * * which is reasonably adapted to, or which * * * he intends to * * * induce, or, in any other way influence a recipient * * * within the United States on a matter of public interest.

Now, I have not interpreted the statute that broadly, I may say. It is impossible to give confidential advice to a client as to how they may come out in arbitration and, at the same time, file copies of the statement with the Justice Department and with the Library of Congress.

SIMPLE DISCLOSURE PROVISION

I do not mind disclosing the relationship. I do not have a draft of a suggested change for you, but I do believe a simple disclosure provision for persons who are not in any way influencing American conduct, governmental or private, would be inadequate. If you simply disclose your interest, the nature of the work you are doing, that should cover you unless the Government came back and wished more information.

You could be prosecuted for a false statement if you misled as to just what you were doing, but if you disclosed what you were doing it seems to me that should be enough. To go through supplemental statements which must be filed within 10 days of every time I ask a student to work for me is too much. Apparently, he must file a statement, copies must be carefully worked out. This is quite a discouragement to taking on a small matter of advice for a small country on a small question. They would most likely flip a coin or go elsewhere rather than consult American lawyers on legal questions. It seems to me to be to our interest to encourage them to come here.

CLARIFICATION OF TERM "POLITICAL CONSULTANT"

Senator SPARKMAN. Let me ask you, would the work that you are doing—as an arbitrator-consultant—fall under the definition of the practice of law?

Mr. FISHER. I regard the work as the practice of law, very clearly.

Senator SPARKMAN. Did you, by any chance, hear or read Mr. Dean's testimony?

Mr. FISHER. I heard of it; I did not hear the testimony.

Senator SPARKMAN. Mr. Dean made this suggestion, and I would like to ask you what you think of this. He proposes that we revise the definition of "political consultant" set forth in section 1, subparagraph (5) of S. 2136. You are familiar with the bill, are you not?

Mr. FISHER. I have seen it.

Senator SPARKMAN. He proposes by adding at the end thereof the following:

Provided, however, That the term "political consultant" shall not include any person engaged in the practice of law solely by reason of rendering legal advice to a client or such person.

DEFINITION OF TERM "SOLELY"

Mr. FISHER. The "solely" becomes difficult. For example, this afternoon I will go over to the State Department to look for maps of Persian Gulf boundaries which were worked out in the Geographer's

Office over there. I will be dealing with the State Department, disclosing to them that I have accepted the assignment, at the informal suggestion of people there. I will be disclosing who I am and what I am there for, but I am not solely advising my client. I am gathering information, not trying to persuade them of anything. The "solely advising" is pretty narrow.

Senator SPARKMAN. Don't you think you are giving that a little too strict a definition?

Mr. FISHER. It is a criminal statute.

Senator SPARKMAN. In other words, the work that you do in your library, the Library of Congress, the Library of the Supreme Court, the Library of Harvard University, or if you are at the State Department looking at charts or maps, isn't that all incidental to your practice of law?

Mr. FISHER. I would certainly appreciate the bill having the phrase "or activities incidental thereto."

Senator SPARKMAN. That is my interpretation of it, and it seems to me you are giving it entirely too strict an interpretation when you say that a thing such as you have described would not be permitted or might be hit by the use of that word "solely." It seems to me that the "solely" part refers to the service that you are rendering to your client in Saudi Arabia.

Any research or any work that you have to do here in order to prepare yourself to render that advice is incidental.

Mr. FISHER. I am very pleased to have that statement in the record, Senator Sparkman, so that if the bill gets passed, I will be glad to have your interpretation of it.

Senator SPARKMAN. That is my interpretation.

IMPLICATIONS OF LOGAN ACT

Mr. FISHER. There is one further point which is not in the statute which you are amending with this bill, and that is the Logan Act, to which I would like to call your attention in the same regard. I believe it to be in the interest of the United States that those foreign countries which have disputes with us settle them lawfully, settle them in our courts, settle them in international courts, in similar fashion.

As you know, the Swiss Government sued in the Court of Claims at one time; the Government of Norway also agreed to litigate in the Court of Claims.

The Logan Act, which is section 953 of title 18, makes it a crime unless you have the "authority of the United States" (which is not elsewhere specified and not quite clear), for any citizen to carry on "any correspondence * * * with any foreign government or any officer * * * thereof, with intent to influence * * * the conduct of government * * * in relation to any disputes or controversies with the United States."

Now, it seems to me if you were seeking to encourage, as we are, countries to use law, seeking to encourage them to use international law, as we understand it, and to use a group of trained lawyers than whom, I think, there is no better group in the world than the international lawyers in the United States—Arthur Dean and the New

York Bar and the Washington Bar have excellent counsel who have represented governments before—it seems to me if you are fixing up the law in this regard, I would like to see it fixed up so that it does not preclude the practice of law for a foreign government with a dispute with the United States. It seems to me to be in our interest to have the foreign governments using American lawyers. We will be more likely to work disputes out amicably if they do have them. The Logan Act ought to be amended to see that it is broadened.

Senator SPARKMAN. Let me ask you again, do you really believe the Logan Act would prevent your representing Saudi Arabia if the United States should happen to be the other party to the controversy, if you are employed as a lawyer by Saudi Arabia?

Mr. FISHER. I have construed the statute in the past on several occasions as not applying. As, perhaps you know, there never has been a prosecution under the Logan Act.

LOGAN ACT APPLIES TO INDIVIDUALS ACTING ON OWN

Senator SPARKMAN. I have always felt that the Logan Act applied to private individuals who were just operating on their own, and did not have an established relationship.

We provide in our statute under the Foreign Agents Registration Act for people to be hired by foreign governments to represent them.

Now, it seems to me that when someone is so employed and registers under the law, he can represent that country as a lawyer even if the United States should be a party.

Mr. FISHER. I believe no one would be prosecuted under current law for that conduct. I think when you are clearing up the law and legislating in this fashion where American citizens are dealing with foreign governments and have relationships with them of one kind or another, I would like to see it spelled out.

Senator SPARKMAN. If you feel it is important I would suggest you do as Mr. Arthur Dean did, in giving us suggestions. I think it would be well, as I suggested to the last witness, for you to file a statement with us dealing with that point, and giving us suggested language.

Mr. FISHER. Fine. I would appreciate the opportunity.

(The statement referred to was not filed at time of printing.)

Senator SPARKMAN. I do not know what attitude this committee will take when all of these gaps are filled, but I think it would be well to have the point before us.

Mr. FISHER. Thank you very much.

25-690—63——8

SPECIAL COURSE ON INTERNATIONAL LAW AT HARVARD

Senator SPARKMAN. Senator Aiken.

Senator AIKEN. Most of our international lawyers are trained, are they not, at Harvard?

Mr. FISHER. We train a lot of them.

Senator AIKEN. Many from foreign countries say they went to Harvard Law School.

Senator SPARKMAN. Harvard trains a great many but there are lots of other fine institutions which train in international law, too.

Mr. FISHER. I would not dispute that.

Senator AIKEN. Do you train them to be representatives of foreign countries? Do you have a special course?

Mr. FISHER. We have a course of graduate training, a graduate training program for foreign students. We have a large group say 50, foreign students from foreign countries in law, and then we have a number of American students taking international law, getting a regular lawyer's degree, but having special courses in the field.

Senator AIKEN. I guess there is a field for your operations, isn't there?

Mr. FISHER. I think there is. There is plenty of business around in terms of the problems that need lawyers' attention.

Senator AIKEN. It is a good business for some.

Senator SPARKMAN. Thank you very much, Mr. Fisher.

Mr. FISHER. Thank you very much.

Senator SPARKMAN. Now we will have Mr. Norman E. Isaacs, executive editor of the Courier-Journal and Louisville Times, Louisville, Ky. Mr. Isaacs, we are glad to have you, sir. We have a copy of your prepared statement. As I have said to the others, you may read it, summarize it, discuss it, present your case as you see fit. Your statement will in any event be printed in full in the record.

STATEMENT OF NORMAN E. ISAACS, EXECUTIVE EDITOR, THE COURIER-JOURNAL AND THE LOUISVILLE TIMES

Mr. ISAACS. Mr. Chairman, with your permission, I would like to read it.

Senator SPARKMAN. Very well.

Mr. ISAACS. There is a minor change in phrasing, and I would like to enter into it.

Senator AIKEN. It usually takes less time, Mr. Isaacs, to read a statement than it does to summarize it.

Mr. ISAACS. Mr. Chairman and Senator Aiken, no editor in the United States can presume to speak for any other editor. Therefore I speak only for myself and on behalf of the Courier-Journal and the Louisville Times. However, I am sure you know that editors maintain the same lines of communications between themselves that exist in law, in medicine, and in other callings. Therefore I believe it can be said fairly that the policies which we in Louisville believe in and practice are those also of a number of other newspapers.

SOURCE OF NEWS AGENCIES NEWS ITEMS

We were dismayed by what was developed during your hearings earlier this year when you questioned lawyers and press agents representing foreign governments and groups.

Part of our concern stemmed from the fact that our newspapers received, or did receive at that time, some of their news from some of the news agencies which were mentioned in those earlier hearings. I personally wrote the principal executives of these news agencies, protesting in the strongest terms.

It was—and it is—our feeling that there has been subterfuge when editors are not aware that the writers of material being transmitted to them may be employees of firms acting as agents for foreign governments. The matter being sent may be of no importance in the sense of leading readers astray, but the essential fact is that a newspaper editor has the right to feel that the news agencies are represented by their own professional employees, individuals who are not in any way subservient to, or beholden to, any news source.

ETHICAL RESPONSIBILITIES OF PRESS

This, Mr. Chairman, also touches on the matter of travel and other subsidies. I hope, Mr. Chairman, that you will extend to Senator Fulbright my compliments for his remarks in the Senate on November 7 when he raised the question of whether the American press is conscious of its ethical responsibilities.

Senator SPARKMAN. Mr. Isaacs, I shall be glad to do it. I have been rather hopeful that Senator Fulbright will be able to complete his testimony before another committee and be here before the hearings are terminated. But in any event I shall be glad to tell him that. I know he will be pleased.

Mr. ISAACS. The episode which brought forth his question was the one in which the producer of a motion picture flew some 250 reporters to Hollywood in chartered planes, there providing free lodging, free food, free liquor, free nightclub fare, free sightseeing tours, and free

cable, free telegraphic, and free telephone tolls. Some 53 cities in the United States were reported as being represented, and while I do not know the exact number of newspapers represented, it was stated that only 5 newspapers insisted on paying the expenses of their representatives.

These five, Mr. Chairman, ought to be named as deserving of praise for high ethical conduct. But for the others, may I say that the Courier-Journal and the Louisville Times have no hesitation in answering Senator Fulbright's question. We consider the commercial toadying of the others a disgrace to journalism.

PUBLIC CRITICISM OF JOURNALISM

There is some arrant nonsense current in my newspaper circles, Mr. Chairman. I regret to say it is reflected in the statements of some of the best known newspaper executives. This nonsense is that it is a gross error to make public criticism of anything wrong within journalism.

As I understand it, we should say only those things which present the good side. And there are many good things about the press. But there are also some sad things. And if there is to be no public criticism of the bad, how can any reform ever take place?

This Hollywood episode is not the first, nor will it be the last, to illustrate the lax practices of a large segment of the American press—practices which do dishonor to the thousands of responsible journalists and newspapers seeking to perform their duties without subsidy or favor. The fact is that there has been a great improvement in the past 15 years.

All this, of course, is not within the scope of your committee's current work. But it has a bearing on it. It would not surprise me to learn that a number of the newspapers that cheerfully accepted the Hollywood producer's subsidizing were quick to express indignation on their editorial pages about the trip to Paris of Mr. Ernest Petinaud, the House of Representatives headwaiter.

EDITORS SHOULD HAVE SOURCE OF INFORMATION

As we in Louisville studied the transcripts of your hearings, three things struck us as important.

One had to do with the ease with which some press agents for foreign governments had smuggled their material into the American press through the various news agencies.

I realize that the first amendment will be raised at the first mention of any suggestion that there be a legal provision to require the disclosure to editors of the facts of sponsorship or origination when stories or photographs emanate from a foreign government, its agencies, or from its paid representatives.

The members of this committee may not know it, but the majority of American publishers have rushed to the security of the first amendment only in those instances where their commercial interests have been at stake—as in calling the Child Labor Act an attack on the first amendment, or railing against the Wage-Hour Act, or in matters affecting postal subsidies; indeed, anything having to do with dollars and cents.

There is no suggestion here that American newspapers be required to publish the facts of sponsorship or origination. What we do believe would be proper would be a requirement that editors be informed of the source of the information which is provided to them, when this source is a foreign government, or an agency of that government, or a firm employed by that foreign government.

This would, by no stretch of the imagination, abridge the freedom of speech or of the press. As I stated, there could be no suggestion that editors publish this information. This would be improper. There is now in the law a labeling provision which requires lobbyists for foreign governments to identify themselves. But there is nothing calling on a news agency to inform its members or clients about this facet.

I suggest that American newspaper editors would welcome knowledge of the source of information when this material has been sponsored by a foreign government. It would put them in a position to handle such copy far more judiciously. Whether to use it, or not to use it, would be their prerogative. What I am arguing for, Mr. Chairman, is more freedom of information—in this case, freedom of information for newspaper editors.

REPORTING OF SUBSIDY FOR FOREIGN TRAVEL

A second thing which disturbed us was the casual manner in which so many well-known writers have gone abroad, accepting travel, lodging, and entertainment and, in some cases, writing subsidies from foreign governments or their agencies.

We would strongly support a provision in the law which would call for full reporting to the Department of Justice of all subsidy for travel abroad, when such subsidies have come either directly or indirectly from a foreign government. We would urge a corollary provision calling for monthly, public reporting by the Department of all such subsidies.

There are well-known journalists who have informally defended the practice of such subsidies. These gentlemen may be quite correct that it in no way has impaired their objectivity and that the practice is entirely defensible. If it is defensible, Mr. Chairman, then certainly there should be no objection whatever to such a provision as I suggest.

ALLEGED LAXITY OF JUSTICE'S REGISTRATION

My third and final comment has to do with the practices within the Department of Justice's registration section. As we read the transcript, it seemed to us that your committee brought forth the information that the registration secion had been most casual about the manner in which it checked and reported on the activities of foreign agents.

There would seem to be no point whatever in passing legislation merely to have passing observance of so important a matter. The Government, through that section, at least, seemed equally guilty of ignoring its ethical responsibilities.

Thank you, Mr. Chairman.

Senator SPARKMAN. Thank you, Mr. Isaacs. I think it is a very fine statement, and we are delighted to have it.

NEWSPAPER'S SUBSCRIPTION TO NEWS SERVICES

I have some prepared questions that I was going to ask, that I will submit to you. They are, in large part, answered in your statement. I wanted to refer to a matter to which you made reference, that is, that our hearings have brought to light the activity of certain public relations firms relating to the disclosure or lack of disclosure of activities within the journalism profession.

You say your own paper received articles and used them from some of the press services. Did your newspaper receive the International News Service?

Mr. ISAACS. No, sir; we never did. We did receive, however, the North American Newspaper Alliance Service. We received United Press International.

Senator SPARKMAN. Is not the United Press International really a carryover of the INS?

Mr. ISAACS. The INS was taken over by United Press International. United Press International is an organization of long standing, the commercial news service.

We are also members of the Associated Press, as you probably know, which is also of long standing. We also receive, just simply for your information, the wire services of the New York Times, the wire services of the Chicago Daily News, and the wire services of the Los Angeles Times-Washington Post. So we are adequately covered, I would say.

Senator SPARKMAN. That is a pretty good plug.

Mr. ISAACS. Yes. We did carry, in answer, I think, to your question, one of the North American Newspaper Alliance stories which came up in the testimony of Mr. Hamilton Wright.

Senator SPARKMAN. Yes.

Mr. ISAACS. And it is true we carried one of those stories.

Senator SPARKMAN. At the time you had no idea of it's being slanted?

Mr. ISAACS. None whatsoever. I would not—we would not—have carried the story of such a nature datelined as it was out of Taiwan, if we had known that the author of it was an employee of a press agentry firm paid by the Chiang government. This has no reflection on the government. It has a reflection, however, on the lack of disclosure.

We also carried material at an earlier date out of Mexico which had been transmitted by United Press International, by a reporter, or he was higher than a reporter, I think he was one of their news editors who had been on a trip to that country for which his organization had not paid. I believe the trip was paid for by the Mexican Government, indirectly or directly.

If we had known that, sir, we would not have published this story.

PROTECTION OF EDITORS AGAINST SLANTED NEWS AGENCY ITEMS

Senator SPARKMAN. What protection do you, as an editor, have to be certain that the material you receive is not the product of public relations men rather than legitimate newsmen?

Mr. ISAACS. At this moment material coming over the wire services, we have no protection.

Senator SPARKMAN. In other words, you have to rely on the services themselves.

Mr. ISAACS. We have to rely on the good faith and honor of the agencies which service us with the material, and this is the whole point of our disturbance.

Your hearings have disclosed what you properly, I think, referred to earlier, in earlier testimony this morning, as a corruption.

Senator SPARKMAN. The witness referred to it and I tried to bring out from him whether or not this constituted a corruption of public communication.

Mr. ISAACS. Correct; and a newspaper editor has no defense whatsoever. He gets this material. It is put on his desk, coming off the wire. I think the tendency is to regard this as a product of that agency's professional employees and, therefore, he is inclined to trust it.

Now, there are, as you well know, divergencies between reporters. But this is a matter which most of the metropolitan newspapers are able to handle by using one basic story and parenthetically inserting the material which sheds another light or another side to that issue.

Senator SPARKMAN. It leaves the reader really confused.

Mr. ISAACS. I agree. We hesitate to rewrite all of them, but in some cases we are almost forced to, in order to get all these various points of view across intelligently.

Senator SPARKMAN. Of course, there is a natural divergence in the way the reporters see things, is there not?

Mr. ISAACS. Well, it has gotten to be more so as we have gone into more interpretation. When you get into interpretation, Mr. Chairman, you then get into these strong varying viewpoints.

Senator SPARKMAN. We even had a little difference of interpretation a while ago with the Harvard professor.

Mr. ISAACS. I am not a lawyer, sir, and I do not presume to enter that field. I think I have enough difficulties as it is.

NEWSPAPER JUNKETS

Senator SPARKMAN. You have commented on these paid junkets. You have made it clear that you do not believe in them or certainly not unless there is the fair disclosure as to what is taking place. Even beyond that is the case we referred to of the 53 newspapers, where representatives were carried on a free junket and everything was furnished free of charge. You do not happen to know the names of those 53 papers?

Mr. ISAACS. I do not, sir.

Senator SPARKMAN. Nor of the five who paid their own way?

Mr. ISAACS. Nor of the five. I would say fairly safely, I think that the New York Times was one of the five. The other four I do not know. I would like to know because I think they deserve some praise.

Now, our feeling, our attitude, is that we will take no trip anywhere at any time under any consideration which we do not pay for. This applies to everything. There are no exceptions to this.

If we do not choose to cover a story we will not let anyone else cover it for us under this guise of having the expenses paid. We think we ought to pay the bill for whatever we cover.

The Washington Post, I believe, also has a very strong rule on the subject. It extends, it is deep enough, that we do not accept tickets for anything, no free tickets, nothing free. If we want to go we pay.

Senator SPARKMAN. You want to be left free to write about it as you see fit.

Mr. ISAACS. Yes, left free to make our own mistakes.

NEWSPAPER CODE OF ETHICS

Senator SPARKMAN. Has the American Society of Newspaper Editors, the American Society of Newspaper Publishers, or the journalism professional fraternity, Sigma Delta Chi, has any one of these organizations ever established a code of ethics to cover such practices?

Mr. ISAACS. No, sir. There has been a great deal spoken and written about the subject. I myself have written for the American Society of Newspaper Editors a number of times about this general subject of what we call freeloading, and I have, it so happens, quite by surprise in a stack of stuff here, a copy of the bulletin of the Society of American Newspaper Editors, which is more than 10 years old at this point, which is called "It's Bribery" on the front page of the American Society of Newspaper Editors Bulletin, an article which I personally wrote at that time attacking this kind of thing.

Senator SPARKMAN. Has there been discussion in the meetings toward the adoption of a code of ethics covering this principle?

Mr. ISAACS. Occasionally, sir. Well, the American Society of Newspaper Editors does have a code of ethics.

Senator SPARKMAN. I mean including in that code of ethics such provision.

Mr. ISAACS. No, sir, it does not. It is broadly implied there ought to be in this type of conduct, but there is no stipulation, and the Sigma Delta Chi has no such stipulation, although it has published a number of articles by me on the subject. It has nothing in its code, the society does not. None of the journalism groups have such a provision.

Senator SPARKMAN. We had another situation which developed during the course of the hearings. That was one in which a writer or a columnist actually received a fee from a public relations firm for a foreign principal, and then wrote about that principal without disclosing that he was being paid for such a writing. We had some cases that arose particularly in connection with or in support of the Trujillo government. There was a good bit in the papers about it at the time.

Mr. ISAACS. Yes.

OUTSIDE EMPLOYMENT FOR JOURNALISTS

Senator SPARKMAN. Is there any provision in the code of ethics for journalists in the area of outside employment?

Mr. ISAACS. None that I know of, Mr. Chairman. But as the result of that passage in your hearings, I checked into our services and columnists to discover whether any of this hanky-panky was going on, and in one case I discovered that this was so. We no longer have that column because we are going to insist that the same rules apply to columnists that we buy that we apply to our own staff members.

There are no provisions in any of the codes that require this of a newspaperman, although it should be, I will concede, definitely. I think that journalism has grown up to the point of financial respon-

sibility now that it can well afford to take this kind of position, and I regret that it has not come about.

Senator SPARKMAN. The thing that seems so bad to me about this is that the reader has no knowledge. If he knew of these things, if there were some kind of a label saying that "this is bought and paid for," then he could read it like he reads an ad.

Mr. ISAACS. I agree with you thoroughly. I think the reader is entitled to all the direction he can possibly be given, and this is why I periodically would love to see the American Society of Newspaper Editors take a strong position. But I do not think it likely. I think the membership would just erupt into a wearying argument. This has frequently happened in the society.

NEWSPAPER PUBLISHERS PRACTICE OF ACCEPTING GRATUITIES

Senator SPARKMAN. What is the argument against it?

Mr. ISAACS. Well, the argument, I suppose, is the old one that a Martini does not corrupt anybody. You remember Senator Douglas' old comment that all corruption starts with the cigar to the policeman on the corner, and this is, I think, something which has grown up in journalism where publishers are very lax and publishers permit, or not only permit, they encourage, their people to accept this kind of gratuity. And it has resulted, unfortunately, in some moonlighting in some cities, I am sorry to say, where newspaper reporters also serve other masters.

I do not see how the reader gets any protection out of this at all. I think the reader is led down the garden path, and I do not think this is honest or responsible journalism.

Now, in our small way, in our small country papers, we are trying to practice honest and responsible journalism. I think, sir, that a great many newspaper editors share my strong views on the subject. I think they would welcome disclosure if only for their own information of where material comes from. If a foreign government in any way has been responsible we are entitled to know it so that we can use our own best judgment.

The story might be perfectly fine, a perfectly fine story; it might be a good travel story, for instance, but if it comes saying that this is under a contract with a public relations firm, that a government has with a public relations firm, we know how to treat it.

BRITISH INFORMATION AGENCY

One of the best agencies, I think, is the British Information Agency, which, I suppose, is a foreign agent, and so registered. The British Information Service provides newspapers with all kinds of materials, including photographs, which we publish and label as coming from the British Information Service.

Senator SPARKMAN. And everybody knows.

Mr. ISAACS. Everybody knows it. The reader is entitled to this information.

Senator SPARKMAN. Let me say, Mr. Isaacs, that I certainly appreciate your testimony, and I am sure the chairman will, as will other members of this committee. It has been a rather refreshing discussion, at least it might make us feel that we have accomplished some-

thing in these hearings, by calling attention to this condition that does exist or has existed in the journalistic field.

Mr. ISAACS. It has been helpful to us, sir.

Senator SPARKMAN. Thank you very much. We appreciate your appearance.

Mr. ISAACS. Thank you.

Senator SPARKMAN. Thank you. The committee will stand in adjournment.

(Whereupon, at 11:40 a.m., the committee was adjourned, subject to call of the Chair.)

APPENDIX

LETTER FROM DEPARTMENT OF STATE

DEPARTMENT OF STATE,
Washington, December 12, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: Following Mr. Chayes' testimony before the Senate Foreign Relations Committee concerning the Foreign Agents Registration Act of 1938, as amended, the staff of the committee sent to the Department a number of questions concerning the U.S. Information Agency's proposed amendment to the act. These questions have been carefully considered. Since they overlap in a number of respects, we believe it would be most helpful if they were answered collectively rather than separately.

If the USIA amendment is enacted, the Department of State could, as an administrative matter, require foreign government information offices to provide information about their activities, the disposition and receipt of funds, and the names of all those Americans employed for services and goods. The Department is not equipped, however, to insure that the information it would receive would be complete and accurate in all cases. It would have to rely on the Department of Justice to conduct inquiries in doubtful situations.

If the Department concluded, after consultation with the Justice Department, that the information it was receiving was incomplete or inaccurate, a number of steps would be open to it. First it could immediately notify the information service or individual concerned to correct the deficiency. Second, if such notification failed, it could withdraw the exemption from registration with the Department of Justice. The Department of Justice could then immediately move to require the service or individual involved to register. Finally, in serious cases, it could declare the individuals involved persona non grata.

If foreign government information offices were required to file with the Department of State, for transmission to the Department of Justice, the same material and facts as to their activities and expenditures as they are now required to file with the Department of Justice, the Department of State would become, for this purpose, simply a post office. Such a proposal might somewhat alleviate the threats of reprisal faced by USIA. It would, however, make the Department of State in effect an arm of the Justice Department with respect to the information offices of foreign governments. The misleading impression might be given that the Department had an independent enforcement responsibility, and we do not believe that this is a proper role for the Department of State.

In summary, the Department could not endorse a proposal under which it would be merely a depository of information for transmittal to the Justice Department. We wish to emphasize, however, that we do support the USIA amendment and believe its enactment would promote our foreign policy objectives.

Sincerely,

FREDERICK G. DUTTON.

LETTER FROM THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS,
New York, N.Y., November 20, 1963.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR FULBRIGHT: Your committee began public hearings yesterday on S. 2136—relating to the Foreign Agents Registration Act of 1938. The American Institute of Certified Public Accountants, the sole national organization of professional certified public accountants in this country, representing over 47,000 members, is interested in the proposed legislation in connection with its possible impact on CPA's representing foreign principals before Federal agencies; for example, the Treasury Department.

There is an ambiguity in the present law under the proposed bill as to the meaning of the exemption contained in section 3(d) of the Foreign Agents Registration Act. It is desirable that this section be clarified and the ambiguity removed.

Under the present law and under S. 2136 an agent (a CPA) representing, for example, a Canadian corporation in a tax controversy with the Treasury Department would appear to be an agent of a foreign principal. If the tax controversy arises out of the ordinary private commercial activities of the foreign principal, and the representation of such taxpayer in connection with the controversy involves no political activities, there appears to be no reason to require registration.

Section 3(d) of the present act exempts from registration agents of foreign principals who engage "only in private and nonpolitical financial or mercantile activities in furtherance of the bona fide trade or commerce of such foreign principal * * *." Section 3 of the proposed bill would amend this section to extend the exemption to public relations activities of a private and nonpolitical nature.

It is not clear from the present language of this section of the act whether the exemption applies to an agent's representation of a foreign principal in a tax controversy with the Federal Government even though the agent engages in no political activity on behalf of the foreign principal. The availability of the exemption appears to depend on whether the word "private" excludes such an agent from the exemption merely because the controversy is with the U.S. Government.

In order to remove the ambiguity presently contained in section 3(d) of the Foreign Agents Registration Act, it is requested that section 3(d) of the act be amended by adding at the end thereof the following:

"*Provided that,* Representing a foreign principal only in connection with a claim of such foreign principal against the United States, or a claim by the United States against such foreign principal, which arises out of the private commercial activities of such foreign principal, shall be considered as falling within the meaning of this exemption, if such representation involves no political activity:"

We respectfully request that this letter be included in the record of the public hearing on S. 2136.

Sincerely yours,

JOHN L. CAREY, *Executive Director.*

SUMMARY INDEX

(List of witnesses appears alphabetically in contents.)

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